



July 15, 2015

Dear Interested Citizen:

This is to announce the availability and public comment period beginning **Thursday, July 16, 2015 and ending Friday, August 14, 2015** for the Environmental Assessment (EA) that will be used by the National Park Service to fulfill federal requirements under the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) Section 106, to evaluate the environmental impacts of converting from public outdoor recreation **a portion** of the Land and Water Conservation Fund (LWCF) Act Section 6(f) funded DeReef Park located on the City of Charleston Peninsula, on the north side of Morris Street, approximately 100 feet west of the intersection of Morris Street and Jasper Street in the Radcliffeborough section of the City. Replacement of the converted parkland with other property per federal regulation 36 CFR 59.3(c) will be provided at a later date; environmental evaluation of potential impacts associated with developing that replacement property as a new park will be evaluated separately.

DeReef Park benefitted from two federal LWCF grants subgranted to the City of Charleston (City) by the State of South Carolina (State). In accepting the federal grants, the City agreed to maintain in perpetuity the entire DeReef Park for public outdoor recreation. NPS must approve any request to convert LWCF funded land to a non-recreation use. Such requests must be forwarded to NPS by the State on behalf of the subgrantee, the City.

A National Park Service decision is required on all proposals to convert parkland that is restricted for public outdoor recreation purposes under Section 6(f)(3) of the federal LWCF Act. NPS will review the request to ensure it meets the conversion criteria presented in federal regulations at 36 CFR 59.3, including environmental information in compliance with the NEPA, prior to making a decision on the conversion request.

You can review and comment on the City's proposal and EA in the following ways:

1. Copies of the EA along with instructions on how to comment have been placed in the following public locations:

Charleston County Public Library
Reference Desk
68 Calhoun Street
Charleston, SC 29401

City of Charleston Legal Department
50 Broad Street, 2nd Floor
Charleston, SC 29401

2. You can find a copy of the EA with instructions on the Internet. Go to www.charleston-sc.gov/DeReefParKEA. The EA with instructions also will be listed in the drop down box on the Community tab which appears on the first page of the City of Charleston's website www.charleston-sc.gov. The site will provide instructions on how to review and comment.

3. A limited number of compact disks (CDs) are available containing the entire environmental assessment. To request a CD, write or telephone your request:

City of Charleston Legal Department
50 Broad Street, 2nd Floor
Charleston, SC 29401
843.724.3730

4. A limited number of printed copies are available for those who cannot obtain a copy using the options described above. To request a printed copy of the document, contact:

City of Charleston Legal Department
50 Broad Street, 2nd Floor
Charleston, SC 29401
843.724.3730

We encourage you to review and comment on the EA as soon as possible. **ALL WRITTEN PUBLIC COMMENTS SENT VIA THE INTERNET, OVERNIGHT OR REGULAR MAIL WILL BE ACCEPTED IF RECEIVED BY 5 P.M. FRIDAY, AUGUST 14, 2015.**

Send all overnight and regular mail correspondence to:

City of Charleston Legal Department
50 Broad Street, 2nd Floor
Charleston, SC 29401

Include your name and return address in the body of all your messages. Your comments along with your name and address will be made available for public review. However, individual respondents may request that we withhold their names and addresses from the public record. We will honor such requests to the extent allowable by law. If you wish to withhold your name and/or address, you must state that request prominently at the beginning of your comment. Anonymous comments will not be considered.

Thank you for your interest in this project. Questions regarding the EA and/or comments should be directed to Frances Cantwell or Susan Herdina at the City of Charleston Legal Department, 843-724-3730.

Sincerely,

City of Charleston

NATIONAL ENVIRONMENTAL POLICY ACT
ENVIRONMENTAL ASSESSMENT
OF
DEREEF PARK, CHARLESTON, SOUTH CAROLINA
JULY 2015

A proposal for the partial conversion of park land protected under Section 6(f)(3) of the Land and Water Conservation Fund Act of 1965, as amended; Public Law 88-578; 43 U.S.C. §§ 460l-4 et seq.

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Submitted to:
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Columbia, South Carolina 29201

For:
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Southeast Regional Office
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Atlanta, Georgia 30303

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CHAPTER 1 – PURPOSE, NEED, AND BACKGROUND

Purpose for Action

The City of Charleston, South Carolina (the “City”) is requesting the State of South Carolina (the “State”) to submit a conversion request to the National Park Service (the “NPS”) for the retroactive removal of the federal Land and Water Conservation Fund Act (LWCFA) Section 6(f)(3) public outdoor recreation purpose restriction from a portion of DeReef Park (the “Park”), formerly known as Radcliffeborough Park, located on Morris Street in downtown Charleston, South Carolina, and mitigate the loss of federally restricted public outdoor recreation property by securing replacement property within one year of federal conversion approval pursuant to the LWCFA conversion regulations at 36 C.F.R. 59.3.

In this case, the State sub-granted two LWCFA grants to the City to benefit DeReef Park, thereby establishing a federal LWCFA Section 6(f)(3) restriction to public outdoor recreation purposes. In return, the City and State agreed to maintain DeReef Park for public outdoor recreation purposes consistent with the Section 6(f)(3) restriction, unless otherwise approved by the National Park Service.

On January 17, 2008, the City conveyed DeReef Park Section 6(f)(3) park property to a private party for a project involving a planned unit infill development (the “Infill Project”) which will permanently occupy a portion of Section 6(f)(3) restricted DeReef Park. This conveyance occurred before the State submitted a conversion request to NPS. Now the State is seeking retroactive approval by the NPS to remove the Section 6(f)(3) restriction from 0.954+/- acres of DeReef Park because this section of DeReef Park will be permanently used for private purposes that do not meet the definition of public outdoor recreation.

This Environmental Assessment (the “EA”) will assess the impacts of the partial conversion on any significant resources and issues associated with the original Section 6(f)(3) restricted DeReef Park to be converted and to the part of DeReef Park that will remain under Section 6(f)(3) restriction.

Need for Action

The need for NPS approval is required by the federal LWCF Act of 1965, as amended, and the LWCFA State Assistance Program Post Completion Compliance Responsibilities regulations at 36 C.F.R. 59.3 (see Appendix, Item #1) for the conversion of LWCF Act Section 6(f)(3) restricted public outdoor recreation properties. Pursuant to these regulations, the State must submit a conversion request seeking NPS approval to remove the federal Section 6(f)(3) public outdoor recreation restriction from any property proposed for other purposes. The LWCF State Assistance Program Federal Financial Assistance Manual of October 1, 2008 (LWCFA Manual), Chapter 8.E, addresses LWCFA conversions and associated guidance including the need for States to seek retroactive review and approval by NPS of conversions that have already occurred.

Pursuant to the National Environmental Policy Act (“NEPA”) of 1969, P.L. 91-190, 42 U.S.C. §§ 4321 et seq., this EA is required to help the NPS evaluate the environmental impacts on significant resources and issues of removing the federal public outdoor recreation use restriction (the proposed action), including whether the remaining Section 6(f)(3) restricted DeReef Park will constitute a viable outdoor recreation unit, and to establish the baseline mitigation requirements

for securing replacement park(s). This EA will also provide the interested and affected public an opportunity to review and comment on the proposed action.

Background

DeReef Park is a 1.3+/- acre neighborhood park in Charleston, South Carolina. It is located on the Peninsula, on the north side of Morris Street, approximately 100 feet west of the intersection of Morris Street and Jasper Street in the Radcliffeborough section of the City (see Appendix, Item # 2.)

The City accepted two federal LWCFA grants through the State for acquisition and development of DeReef Park and agreed to grant conditions, including to maintain DeReef Park for public outdoor recreation purposes unless otherwise approved by the National Park Service through the LWCFA Section 6(f)(3) conversion process.

Now, the City proposes to request NPS retroactive approval to remove the federal LWCFA Section 6(f)(3) restriction from 0.954+/- acres of DeReef Park. On December 17, 2002, the City approved the Infill Project which will permanently occupy a portion of the Section 6(f)(3) restricted DeReef Park property. Pursuant to the LWCFA regulations at 36 C.F.R. 59.3, the Infill Project does not meet the definition of public outdoor recreation. The remaining LWCFA Section 6(f)(3) 0.346+/- acre portion of DeReef Park will be renovated as a smaller neighborhood park. The City proposes to mitigate this action by securing replacement site(s) within one year of federal approval of this proposal pursuant to the LWCFA conversion regulations at 36 C.F.R. 59.3.

DeReef Park History and Description

DeReef Park is a 1.3+/- acre park located on Morris Street in downtown Charleston. The Park was acquired and improved with the assistance of LWCFA grants. The State sub-granted two federal LWCFA grants to the City to create and develop DeReef Park (a.k.a. Radcliffeborough Park) as follows:

1. LWCFA grant #45-00856 - To assist in the cost of acquisition of multiple parcels to assemble the new neighborhood park, year approved: 1981.
2. LWCFA grant #45-00985 - To assist in the cost of improvements to Radcliffeborough Park, including demolition of an existing road, a playground with equipment, walkways, picnic tables, landscaping, and curbing, year approved: 1991.

As a result of the two federal grants, LWCFA Section 6(f)(3) restriction to public outdoor recreation purposes was established for the entire DeReef Park, and the City agreed to maintain and use the Park for public outdoor recreation purposes unless otherwise approved by the Department of the Interior, National Park Service, through the conversion process per federal regulations at 36 C.F.R. 59.3 and described later in this section (see Appendix, Item # 1). The Park property covered by this restriction was verified as part of this environmental review process.

DeReef Park was constructed to fill a recreational need in the Radcliffeborough neighborhood of the City and to assist the revitalization efforts then occurring in this area of the City. At the time of acquisition, the area around the future DeReef Park was run down and in need of revitalization. A number of private and public initiatives were being implemented to incentivize the rehabilitation of

the area, to include making available Section 8 rental subsidies, the designation of the area as a Section 312 Rehabilitation Loan program where monies on favorable terms were made available for owner occupied units, and the initiative of the Historic Charleston Foundation, a non-profit organization, which acquired and renovated the exterior of structures, and then made them available at below market rates to long term residents of the area that met specified low-to-moderate income levels. The 1980 census data for this area of the City reveals the African American population exceeded 85%. (See Appendix, Item #4)

The demographics of the Park's service population changed over the course of the years. The 1980 census data revealed the area to be predominantly populated by African Americans (87%). Twenty-seven (27%) percent of the population was under the age of 18. Non-family households (a single householder residing with 2 unrelated persons) comprised 33.2% of the households in the area. The median household income was \$7,640, as compared to the overall City median of \$13,486. By 1990, the African American population had decreased, as had the population under the age of 18, to 76.3% and 16.8%, respectively. This decline in African American population from the 1980 census (11%) outpaced the decline in African American population city-wide (5.5%). Non-family households increased to 34.9% of the households in the area. Median household income of \$11,447 was less than the overall City median of \$24,029. These trends continued over the next decade. The 2000 census data reveals that the African American population had declined to about 55.3%, a drop of about 21% since 1990. The population of those under 18 years of age was around 15.8%, and non-family households grew in excess of 51% of the households. The college age population (18-24 years of age) increased from 21.6% in 1990 to 34.7% in 2000. Median household income of \$14,910 remained lower than the overall City median of \$35,395. The proximity of the area to the College of Charleston and the Medical University of South Carolina, each within an easy walk, could be factors contributing to these changes. (See Appendix, Item #4)

DeReef Park was designed to serve as a "Neighborhood Park" in the City's park matrix. A "Neighborhood Park" is one intended to primarily serve those living within a one-half mile radius of the park site (see Appendix, Item #5). Most users of DeReef Park accessed it by foot. The Park included play equipment for young children, a couple of picnic tables, two small chess tables, a couple of horseshoe pits, a small spray-play feature and some off-street space for parking. The Park had some brick and concrete paths that primarily served to organize the space. Mature trees within the Park provided shade, and a small building with historic significance was incorporated into the Park as well. Types of outdoor recreation activities and uses that took place at DeReef Park included sitting on benches, picnicking, informal Frisbee and ball play, passive games associated with the Park's amenities and an occasional gathering place for groups.

The small historic building in the LWCFA Section 6(f)(3) area was once owned by the Sons and Daughters of Joseph No. 9 Mission. The building was located at what was once 9 DeReef Court, and over the years has been referred to as "9 DeReef Court Chapel" and the "United Missionary Chapel." The Praise House, a regional vernacular term for a place of worship or meeting house, is a contributing resource to a historic district that has been determined to be eligible for listing in the National Register of Historic Places (the "National Register"). The building was in a state of disrepair when acquired by the City in 1988. The intent was to refurbish the Praise House and use it in conjunction with the Park. A lack of funding prevented its rehabilitation. Over time, the elements took their toll, requiring that the Praise House be boarded up for safety considerations.

Despite the public and private efforts to revitalize the area around DeReef Park, the area stagnated, as did the Park. There was a significant change in the racial make-up and population age of the area, but no appreciable change in household income from 1980 to 1990 (see

Appendix, Item #4). The layout of the Park itself and how it related to Morris Street and neighboring properties could have also contributed to its stagnation. From Morris Street, the east side of the Park was visible, but partially obscured by trees. The west side of the Park, where the Praise House was situated, was obscured by structures on private property on the west side of DeReef Court. The structures on the private properties that bordered the perimeter of the Park “backed up” on the Park, resulting in a situation of the Park not being under the observant eyes of its neighbors. This secluded condition made the Park a prime hang-out for older teenagers and others, and less attractive and user-friendly to the small child or leisure-seeking adult. Due to a lack to funding, the Praise House persisted in a state of disrepair, and despite efforts to keep it boarded up, it was not unusual for it to be broken into. The inside of the Praise House was in very poor shape due to its use by vagrants who left trash and broken-up items strewn about. This condition was likely exacerbated by the poor condition of the exterior of the building that provided inadequate protection. In the later years, the Park was mostly used for exercising dogs and free parking, with occasional use by organized groups.

Decision to Use a Portion of DeReef Park for Non-recreation Purposes

The LWCFA conversion regulations at 36 C.F.R. 59.3(b)(1) require that all practical alternatives to the proposed conversion have been evaluated. This evaluation is to be conducted by the project sponsor and serve as background information in the application for a conversion. It is not intended to be included in the scope of analysis for the NEPA environmental assessment since the decision to use a Section 6(f)(3) restricted park for non-recreation purposes is not a federal decision. However, the information is provided here as background information.

The Infill Project began in the early 2000s when a developer proposed to the City the construction of a planned unit infill residential project on properties abutting the north and south sides of Morris Street. The Project included a portion of DeReef Park. The proposal called for 0.954+/- acres of the Park to be put to non-recreational use. The remaining 0.346+/- acres portion of the Park would remain a public park, as would other portions of the Infill Project.

The City Planning Department endorsed the Infill Project, viewing it as a means of stabilizing this area of Morris Street that was in a state of decline and of securing for public recreational use a portion of the site that once housed the first African American public school in the City (the “Simonton Property”). The properties under the control of the developer included lands on the south side of Morris Street, across from DeReef Park, that included the Simonton Property. The City had attempted to acquire the Simonton Property over the years, but had been unsuccessful. The Infill Project contemplated a conveyance of a portion of the Simonton Property to the City for use a public park. The developer of the Infill Project also controlled properties on the north side of Morris Street which essentially surrounded DeReef Park. The layout and traffic circulation of the Infill Project on the north side of Morris Street was deemed consistent with good urban planning practices, and while its implementation necessitated a loss of a portion of DeReef Park, a recreationally viable reconfigured Park would remain, as would public ownership of a portion of the culturally important Simonton Property.

To implement the Infill Project, it was necessary that properties, including a portion of DeReef Park, be rezoned. State law and City zoning regulations require any rezoning of property to be considered by the Planning Commission, a board of residents appointed by City Council. The Planning Commission must conduct a public hearing on the issue and make a recommendation to the City Council as to the merits of the rezoning. Notice of the public hearing is advertised in a newspaper of general circulation and the properties subject to a rezoning request are posted with

notice thereof along each public street that abuts the affected properties. This process was followed in the rezoning for the Infill Project. As the Infill Project included the Park, the Park was posted with a sign that it was subject to being rezoned, and its address and associated tax map number appeared in newspaper notices of public hearings.

The Planning Commission held a public hearing on the project on August 21, 2002. The Project was fully explained at the hearing, including the change in use to a portion of DeReef Park. Numerous members of the public appeared and spoke at the hearing. At the conclusion of the hearing, the Planning Commission voted to recommend to the City Council that the Project be approved. (See Appendix, Item #6, minutes of the Planning Commission meeting of 8/21/02.)

The City Council conducted a public hearing on the Infill Project on December 10, 2002. An explanation of the project including how it affected DeReef Park was explained. The Council received input from numerous members of the public. At the conclusion of the hearing, the City Council approved the Project and gave first reading to an ordinance approving it. (See Appendix, Item #7, minutes of the City Council meeting of December 10, 2002.) The ordinance was finalized and enacted at the City Council meeting held on December 17, 2002. On January 17, 2008, the City conveyed DeReef Park property to a private party for the Infill Project.

In 2003, the configurations of DeReef Park and Simonton Park as depicted in the Infill Project were modified so that each Park would be a contiguous whole, resulting in more viable recreational areas on either side of Morris Street. A 2006 iteration of DeReef Park depicted the play area being in the northern portion of the Park. The conceptual plan now has the play area in a more visible and accessible location, nearer to Morris Street .

Appendix Item #2 depicts the footprint of the DeReef Park LWCFA Section 6(f)(3) area before the Infill Project. Appendix Item #3 depicts the footprint of the LWCFA Section 6(f)(3) area after implementation of the Project. Appendix Item 8 is a conceptual site plan for the portion of DeReef Park that will remain subject to the LWCFA public outdoor recreation restriction.

LWCFA Section 6(f)(3) Conversion Process

The LWCFA Section 6(f)(3) states “No property acquired or developed with assistance under this section shall, without the approval of the Secretary (delegated to the National Park Service) be converted to other than public outdoor recreation uses.” This Section lays out the criteria that must be met for federal approval of the conversion.

The criteria and other federal requirements for LWCFA conversion approval are covered in the “LWCF Program of Assistance to States Post-Completion Compliance Responsibilities” otherwise known as the LWCFA conversion regulations at 36 C.F.R.59.3 (see Appendix, Item #1). The key prerequisites for conversion approval include:

1. All practical alternatives to the conversion have been evaluated. *This evaluation is required of the public sponsor owner (e.g., state, county, city) with legal control of the site and responsible for maintaining the Section 6(f)(3) restricted site for public outdoor recreation purposes, or deciding to use the site for other private and/or non-recreation purposes. The evaluation must be included in the state's submission of the conversion proposal to NPS. This evaluation is not to be confused with the NEPA environmental review of alternatives for the federal action, but is provided in the EA as background information.*

2. The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal. *This is an administrative determination and not subject to environmental review.*

3. The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. The replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site. *Usefulness evaluation addresses the range of outdoor recreation resource opportunities available at the converted and replacement sites and is included in the EA as an impact topic.*

4. Replacement property need not necessarily be directly adjacent to or close by the converted site. *This statement guides the selection of replacement site(s).*

The regulations also allow for delayed replacement for conversions at 36 C.F.R. 59(c) when it is not possible for the replacement property to be identified prior to the State's request for a conversion. In such cases, an express commitment to satisfy Section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment will be in the form of an amendment to the grant agreement. The State proposes to work with its sub-recipient, the City, to secure replacement property within one year of conversion approval.

Partial Section 6(f)(3) Conversion of DeReef Park

The LWCFA Manual, Chapter 8.E.10, addresses the discovery of conversions that occur prior to NPS approval. In these cases an "after the fact" conversion proposal must be submitted expeditiously to NPS for immediate resolution of the unapproved conversion by conducting a retroactive conversion process.

A LWCF conversion is triggered when a private and/or non-recreation use permanently occurs on Section 6(f)(3) restricted property. In the case of the DeReef Park conversion, the property was conveyed to a private party on January 17, 2008. NPS considers this date the point at which the conversion occurred. Because NPS did not receive a proposal from the State of South Carolina before the DeReef Park property was conveyed to private interests, the NPS conversion review and decision process must be conducted retroactively.

The first step in the conversion process is to verify the original LWCFA Section 6(f)(3) restricted area and then to determine how much of the Section 6(f)(3) area will be converted to private and or non-recreation uses. The City, State and NPS reviewed the administrative record for the original Section 6(f)(3) restricted area and verified the property parcels subject to the restriction (see Appendix, Item #2). Then, any park properties conveyed to a private party as well as any other parcels that would no longer serve a public outdoor recreation purpose were identified to define the extent of the Section 6(f)(3) conversion (see Appendix, Item #3). Finally, it is to be determined by NPS whether or not any remaining park property subject to the Section 6(f)(3) restriction can serve as a viable outdoor recreation unit without dependency on the area to be

converted. In this case, NPS has determined that a viable Section 6(f)(3) area will remain so a partial conversion of DeReef Park is the proposed action alternative.

Remaining Section 6(f)(3) DeReef Park

The remaining Section 6(f)(3) portion of DeReef Park, post-conversion, will operate as a neighborhood park serving nearby dense, urban neighborhoods and offer many of the same outdoor recreational opportunities as did the originally configured Park, but within a smaller, more confined footprint. This remaining portion of the Park will have a modern, equipped play area for children, picnic tables, benches, a drinking fountain and a grassed lawn, as before. Trees on the remaining portion of the Park are being preserved to maintain shade, and landscaping will be installed as well. Space has been set aside to accommodate a small, community garden in the future. An improved amenity of DeReef Park, post-conversion, will be the Praise House structure that will be rehabilitated according to the principles of the Secretary of the Interior's Standards for the Treatment of Historic Properties. The Praise House will provide space for Park programs, direly needed restrooms, and shelter during times of inclement weather. Its new location in the Park on Morris Street is expected to increase its use.

DeReef Park, post-conversion, will still front on Morris Street. Its play area will be framed by a handsome wrought iron fence to provide better definition and to secure safety of users, particularly children, from traffic. The Park will be bordered by neighborhood streets on its north, south and west sides. New street trees will be planted within the Infill Project, to include streets that border the Park. Because the Park will be defined by streets on three of its four sides, traditional access to the Park will be maintained. A conceptual site plan of DeReef Park, post-conversion is in the Appendix, Item #8.

The population served by DeReef Park has changed since the Park was originally constructed. At the time of the conversion in 2008, the population was older, with the largest percentage of population being college age, and the population was more Caucasian than was the case in 1980 or 1990. The housing in the area was mostly rental and a majority of households in the vicinity of the Park were non-family households. (See Appendix, Item #4.)

The remaining portion of DeReef Park, though smaller than the original Park, will continue to provide recreational opportunities to serve its original constituency and the evolving constituency. Though fewer children live in the vicinity, a play area will be available to those who do. The grassed lawn will serve the needs of both the younger population and older populations as a place for exercise, reading and picnicking. The restored historic Praise House will provide restroom facilities, indoor space for Park programs and shelter during times of inclement weather.

Section 6(f)(3) Conversion Delayed Replacement

The conversion regulations at 36 C.F.R. 59.3(c) allow for delayed replacement of converted park property when it is not possible to identify replacement sites prior to the State's request for a conversion (see Appendix, Item #1). In such cases, an express commitment to satisfy Section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment must be in the form of an amendment to the grant agreement. In this case, the State proposes to work with its subrecipient, the City, to secure replacement property within one year of conversion approval. The replacement site(s) must meet the replacement criteria in the conversion regulations at 36

C.F.R. 59.3(b), including providing recreation opportunities that are reasonably equivalent in recreation usefulness and location as the converted parcel at DeReef Park.

CHAPTER 2 - DESCRIPTION OF ALTERNATIVES

The range of alternatives available to the National Park Service for consideration is 1) a “no action” alternative, where no proposal is submitted to NPS for review so there would be no federal action; and 2) a “proposed action” alternative where NPS receives, reviews and approves a proposal request.

No Action Alternative: NPS does not receive a proposal from the State to convert a portion of DeReef Park pursuant to the LWCFA conversion regulations at 36 C.F.R. 59.3 even though DeReef Park is conveyed to a private interest for non-public and non-outdoor recreation purposes.

Proposed Action Alternative: The Proposed Action Alternative is the NPS retroactive approval of a conversion proposal from the State to convert a 0.954+/- acre portion of DeReef Park, including a State commitment to require the City, the State’s LWCFA subrecipient, to secure replacement property within one year of NPS conversion approval pursuant to the federal LWCFA conversion regulations at 36 C.F.R. 59.3(c). The remaining LWCFA Section 6(f)(3) restricted 0.346 acre portion of DeReef Park will continue to be used for public outdoor recreation purposes as a smaller yet viable neighborhood park area.

CHAPTER 3 - AFFECTED ENVIRONMENT

This chapter describes the existing condition of any significant resources and issues associated with the original LWCFA Section 6(f)(3) restricted DeReef Park that could be impacted by implementing any of the two alternatives described in Chapter 2. The affected environment descriptions serve as the baseline for predicting impacts to resources that could occur if any of the alternatives under consideration (including no action) are implemented. Note that because the private, non-recreation use of a portion of DeReef Park began in January 17, 2008, NPS uses this date as the time the conversion occurred so the following baseline description of affected resources reflects a condition as of January 17, 2008.

An assessment of the original LWCFA Section 6(f)(3) restricted area of DeReef Park to determine any significant resources and issues at the time of the conversion that may likely have been impacted by the partial conversion was done by S&ME, an environmental engineering firm. That assessment indicated the following resources and issues for the potential to be impacted most by the either of the two alternatives:

Floodplains: According to FEMA’s Flood Insurance Rate Map (see Appendix, Item #9), all of DeReef Park is located in floodzone AE, requiring an elevation of approximately 13 feet. This means that, to comply with FEMA regulations, the first habitable floor of a structure must be elevated 13 feet above Base Flood Elevation (“BFE”). The elevation of DeReef Park above BFE ranges from 5.5’ to 11.5’, so depending on where a structure is located in the Park would determine how high the structure would need to be elevated to comply with FEMA requirements. At the lowest point in the Park (5.5’), to meet the FEMA 13’ BFE requirement, the first habitable

floor of a structure would have to be elevated 7.5' above the ground. A structure in the highest part of the Park (11.5') would have to be elevated 2.5' above ground. The only structure in the Park, the Praise House, did not meet the elevation requirements of FEMA.

Because of the elevation of the Park, it was subject to periodic ponding at times of heavy rains, to include areas around the Praise House.

Park and Outdoor Recreation Resource Usefulness and Opportunities: DeReef Park is a neighborhood park totaling 1.3+/- acres. The entire 1.3+/- acre Park has a federal restriction to outdoor recreation purposes under the LWCFA Section 6(f)(3). The Park serves a residential area within a half-mile radius of the site. Most users walk to the Park. Street parking is available as well as a few parking spaces inside the Park in a public right-of-way called DeReef Court. Public access into the Park is from Morris Street and DeReef Court. Park features include walkways; an open lawn area; shade trees; a drinking fountain; benches; picnic and game tables; play equipment; small spray-play feature; and a small building (see "Historic Resources" topic below). The Park offers passive outdoor recreation opportunities for users including: relaxation; picnicking; playground play; informal play including Frisbee and ball tossing; and small group gatherings.

Aesthetics: The visibility of DeReef Park from Morris Street, as originally constructed, was partially obstructed by private buildings and foliage. This condition persisted as of January 17, 2008, presenting an isolated and unsafe impression. By 2008, the Park was in a relative state of decline. Its amenities were outdated. The Praise House was boarded up and inaccessible for use by the general public.

Historic Resources: DeReef Park is located within a historic district that has been determined to be eligible for listing in the National Register. The Praise House is a contributing resource within this historic district. The structure was erected in the first quarter of the twentieth century. A survey conducted by the South Carolina Department of Archives and History (the State Historic Preservation Office or "SHPO") concluded that the façade of the building had been altered, rendering it impossible to determine the original appearance or architectural theme of the building. An in-house survey conducted by a city architectural planner could not confirm if the building had been constructed at 9 DeReef Court or whether it had been moved there. From 1943 until 1988, when it was purchased by the City, the Praise House was owned by the Sons and Daughters of Joseph Society No. 9. When the City purchased 9 DeReef Court, the Praise House was in a state of disrepair. Its foundation was inadequate and its interior was subject to the elements due to inefficient or broken windows and a deteriorated exterior. The steeple on the building eventually fell.

The City whitewashed the House to improve its exterior appearance as it related to the Park, but eventually was forced to board up the building for safety reasons. In 1996, the City was awarded a grant from the SHPO office to commission drawings for the rehabilitation of the structure. The City retained architect George Dowis to draw the plans. The plans were reviewed and approved by the SHPO as well as the City's Board of Architectural Review (the "BAR"). A lack of funding has precluded the rehabilitation. By 2008, the Praise House remained in a dilapidated, unsafe condition.

Socioeconomics/Minority and Low Income Population: The 2000 census data reveals that the African American population in the area served by the Park had declined to about 55.3%, a drop of about 21% since 1990. The population of those under 18 years of age was around 15.8%, and non-family households grew in excess of 51% of the households. The college age population

(18-24 years of age) increased from 21.6% in 1990 to 34.7% in 2000. Median household income of \$14,910 remained lower than the overall City median of \$35,395.

Resources considered but dismissed from detailed analysis because of less than minor impacts

Circulation: DeReef Park is located within an urban street system. The original Park had some space for off-street parking. The Park, post-conversion, will remain within the urban grid system. Off-street parking will no longer be available. The Park, as converted, will be designed as a walk-to park, consistent with its purpose to serve those living within a half mile of its radius. Street parking will be available but off-street parking in the park area will be eliminated. Access to the Park will remain from DeReef Court and Morris Street.

Threatened/Endangered Species: The United States Fish and Wildlife Service has concurred with the determination that there are no known occurrences of threatened or endangered species in the area of DeReef Park (see Appendix, Item #10.)

CHAPTER 4 – ENVIRONMENTAL IMPACTS

This chapter describes how the existing condition of the resources described in Chapter 3 would change as a result of the implementation of either alternative. The impacts are assessed to determine whether there would be significant environmental effects.

Floodplains

No Action: The Praise House will remain in an AE flood zone, below BFE.

Action: The Praise House will be relocated to the southeast corner of the Park, still in an AE flood zone. In conjunction with the relocation, the foundation of the Praise House will be slightly raised. This slight raise in elevation, along with drainage improvements required of the developer by the Infill Project, will provide better protection against flooding.

Park and Outdoor Recreation Resource Usefulness and Opportunities

No Action: The LWCFA Section 6(f)(3) restricted DeReef Park is reduced in size by 0.954+/- acres, leaving a 0.346+/- parcel intact for outdoor recreation uses (see Appendix, Item #3). The loss of LWCFA Section 6(f)(3) restricted outdoor recreation property is not mitigated with replacement property creating a reduction of the total nationwide estate of federally restricted public outdoor recreation resources including within the State and City. By not replacing the lost outdoor recreation resources per the conversion regulations, the State and City would be in non-compliance with the LWCFA Program. As such, NPS may withhold payment of federal funds to the State/City, withhold approval of future projects of the State/City, and take such other actions deemed appropriate under the circumstances until compliance or remedial action has been accomplished by the State to the satisfaction of NPS (see LWCFA Manual Chapter 8.N regarding Penalties for Failure to Comply with Federal Laws and Regulations).

Action: The partial conversion will result in a change of ownership to a private party of 0.954+/- acres of the 1.3+/- acre DeReef Park for private, non-outdoor recreation uses. This portion of the Park will be lost to public, outdoor recreational use. Types of facilities located on this converted portion of the Park include parking, some play equipment, a water fountain, game tables and a grassy area. The converted portion of the Park also included the Praise House, however, the Praise House was relocated to the remaining 0.346+/- acre area of the Park where it will be rehabilitated for public outdoor recreation support uses. The City intends to mitigate this 0.954+/- acre loss to its recreational inventory with required replacement sites(s).

The partial conversion will result in the size reduction of an outdoor recreation area from 1.3+/- acres to 0.346+/- acres. Most recreational experiences accommodated by the original DeReef Park will be accommodated at the remaining Section 6(f)(3) park area.

As converted, the Park will provide a playground area, open space with shade trees, new restrooms and sheltered program space in the rehabilitated Praise House. The converted Park will maintain direct frontage on Morris Street. The area of the Park will be more defined, and its play area better secured. It is anticipated that users of the converted Park will be predominantly from surrounding neighborhoods and will walk to the Park, as was the case with DeReef Park prior to the conversion. The loss of on-site parking should not affect the use of the converted Park or the residents in its vicinity. Street parking will still be available. The remaining Section 6(f)(3) restricted DeReef Park totaling 0.346+/- acres will comprise a viable outdoor recreation area.

The future replacement site(s) will offer reasonably equivalent recreation opportunities to replace those removed as a result of the conversion.

Aesthetics

No Action: DeReef Park will remain partially obscured from Morris Street, as will the visibility of the Praise House. Play equipment requires updating. Funding for the rehabilitation of the Praise House would be postponed, pending the securing of funding.

Action: DeReef Park, post-conversion, will have improved visibility from Morris Street and from the other streets within the Infill Project that abut it. The look of the Park will be improved with the installation of an attractive wrought iron fence that will define and secure the play area. New sidewalks will border the Park, and the Praise House will be restored at its new, more prominent, and publicly visible location within the remaining Park.

Historic Resources

No Action: The Praise House will remain *in situ*. Its rehabilitation will depend on the availability of future funding.

Action: The Praise House will be renovated pursuant to plans approved by the SHPO in 1996, updated to conform to current code requirements, and the BAR Charleston Standards that are based on the *Secretary of the Interior's Standards for Treatment of Historic Properties*. The structure will have restroom facilities and will comply with requirements of the Americans with Disabilities Act.

The 0.354+/- portion of DeReef Park remaining after the partial conversion will include the

structure, which was moved from its location at 9 DeReef Court to the southeast corner of the Park on Morris Street. The orientation of the structure is on a north-south axis, as opposed to the east-west axis when at 9 DeReef Court. At its new location, the Praise House is more visible and accessible to the public. Its adaptive reuse for recreational programs, such as summer camps, and its publicly available restroom facilities, will complement the recreational opportunities to be provided by DeReef Park, as converted, and will enhance the comfort of Park users. The Praise House is located in and is a contributing resource to a historic district that has been determined eligible for the National Register. Its renovation will preserve a deteriorating structure. Public ownership and use of the structure will be maintained.

This partial conversion is an undertaking subject to Section 106 of the National Historic Preservation Act, as amended, Public Law 89-665; U.S.C. 470 et seq. The National Park Service is consulting with the SHPO and interested parties and determined that the partial conversion will not adversely affect historic properties eligible for the National Register of Historic Places, specifically the Praise House (see Appendix, Item #11). Objections were raised during the review period for the assessment of effect determination and the NPS is reviewing additional information to continue the 106 consultation. Comments resulting from this EA will be incorporated into the on-going consultation as well.

Socioeconomics/Minority and Low Income Populations

No Action: When DeReef Park was constructed and opened, the populations served by the Park were predominately African American households, with median incomes below the City-wide median. Census data from 1990 shows a gradual change to the make-up of the areas in the vicinity of the Park by race, the area trending more Caucasian, from 87% African American in 1980 to 76.3% African American in 1990. Household incomes continued below the City-wide median. By 2000, the African American population had dropped to about 55% of the population, a decrease of over 21% since 1990. Nonfamily households constituted over half of the households. Thirty-four (34%) percent of the population was college age, over twice the population of those under the age of 18 (16.7%). Median household income still lagged behind the City-wide median, but the gap had closed somewhat. (See Appendix, Item #4). These demographic changes occurred prior to the implementation of the Infill Project and prior to the partial conversion of DeReef Park. The Park will remain a neighborhood park, designed for passive uses with equipment for young children.

Action: The demographics of the area have changed since DeReef Park was originally planned in the 1980s and opened in the 1990s. This change in demographics had occurred prior to the Infill Project coming on line and prior to the conversion. The area in and around DeReef Park is now mostly populated by nonfamily households of college or young professional age. The African American population of the area dropped from 87% in 1980 to 55.3% in 2000 (see Appendix, Item #4).

DeReef Park, as reconfigured, will maintain the amenities of the original Park for the service population within a half-mile radius, to include updated, modern play equipment for children. Its lawn will still accommodate passive recreational pursuits, such as reading, picnicking, light exercise and general relaxation. This partial conversion will further allow for the rehabilitation and adaptive reuse for recreational purposes of the Praise House, to include restroom facilities and indoor park program space. This added amenity will benefit all users of the Park and preserve for public use and enjoyment an important, cultural resource. Although the demographics have changed, the investment in the extant Praise House will preserve an important part of the historic

African American community that thrived during the nineteenth and twentieth centuries and will connect modern park users with an historic community resource that contributes to the history of African Americans in Charleston.

The replacement sites will mitigate the loss of public outdoor recreation resources and opportunities pursuant to the conversion regulations at LWCFA 36 C.F.R. 59.3.

CHAPTER 5 - COORDINATION AND CONSULTATION

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APPENDIX

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Code of Federal Regulations

Title 36 - Parks, Forests, and Public Property

Volume: 1

Date: 2014-07-01

Original Date: 2014-07-01

Title: PART 59 - LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Context: Title 36 - Parks, Forests, and Public Property. CHAPTER I - NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR.

Pt. 59

PART 59—LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Sec.

59.1 Applicability.

59.2 Information collection.

59.3 Conversion requirements.

59.4 Residency requirements.

59.5-59.6 [Reserved]

Authority: Sec. 6, L&WCF Act of 1965 as amended; Pub. L. 88-578; 78 Stat. 897; 16 U.S.C. 4601-4 et seq.

Source: 51 FR 34184, Sept. 25, 1986, unless otherwise noted.

§ 59.1 Applicability.

These post-completion responsibilities apply to each area or facility for which Land and Water Conservation Fund (L&WCF) assistance is obtained, regardless of the extent of participation of the program in the assisted area or facility and consistent with the contractual agreement between NPS and the State. Responsibility for compliance and enforcement of these provisions rests with the State for both State and locally sponsored projects. The responsibilities cited herein are applicable to the area depicted or otherwise described on the 6(f)(3) boundary map and/or as described in other project documentation approved by the Department of the Interior. In many instances, this mutually agreed to area exceeds that actually receiving L&WCF assistance so as to assure the protection of a viable recreation entity. For leased sites assisted under L&WCF, compliance with post-completion requirements of the grant ceases following lease expiration unless the grant agreement calls for some other arrangement.

§ 59.2 Information collection.

The information collection requirements contained in § 59.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0047. The information is being collected to determine whether to approve a project sponsor's request to convert an assisted site or facility to other than public outdoor recreation uses. The information will be used to assure that the requirements of section 6(f)(3) of the L&WCF Act would be met should the proposed conversion be implemented. Response is required in order to obtain the benefit of Department of the Interior approval.

§ 59.3 Conversion requirements.

(a) *Background and legal requirements.* Section 6(f)(3) of the L&WCF Act is the cornerstone of

Federal compliance efforts to ensure that the Federal investments in L&WCF assistance are being maintained in public outdoor recreation use. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value.

(b) *Prerequisites for conversion approval.* Requests from the project sponsor for permission to convert L&WCF assisted properties in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer to the appropriate NPS Regional Director in writing. NPS will consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the proposed conversion have been evaluated.

(2) The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not serve a recreation purpose.

(3) The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. Dependent upon the situation and at the discretion of the Regional Director, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. NPS will consider State requests to change the project sponsor when it is determined that a different political jurisdiction can better carry out the objectives of the original project agreement. Equivalent usefulness and location will be determined based on the following criteria:

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site. This criterion is applicable in the consideration of all conversion requests with the exception of those where wetlands are proposed as replacement property. Wetland areas and interests therein which have been identified in the wetlands provisions of the Statewide Comprehensive Outdoor Recreation Plan shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion regardless of the nature of the property proposed for conversion.

(ii) Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public outdoor recreation needs. While generally this will involve the selection of a site serving the same community(ies) or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for outdoor recreation, then the project sponsor should seek to locate the substitute area in another location within the jurisdiction. Should a local project sponsor be unable to replace converted property, the State would be responsible, as the primary recipient of Federal assistance, for assuring compliance with these regulations and the substitution of replacement property.

(iii) The acquisition of one parcel of land may be used in satisfaction of several approved conversions.

(4) The property proposed for substitution meets the eligibility requirements for L&WCF assisted acquisition. The replacement property must constitute or be part of a viable recreation area. Unless *each* of the following additional conditions is met, land currently in public ownership, including that which is owned by another public agency, may not be used as replacement land for land acquired as part of an L&WCF project:

(i) The land was not acquired by the sponsor or selling agency for recreation.

(ii) The land has not been dedicated or managed for recreational purposes while in public ownership.

(iii) No Federal assistance was provided in the original acquisition unless the assistance was provided under a program expressly authorized to match or supplement L&WCF assistance.

(iv) Where the project sponsor acquires the land from another public agency, the selling agency must be required by law to receive payment for the land so acquired.

In the case of development projects for which the State match was not derived from the cost of the purchase or value of a donation of the land to be converted, but from the value of the development itself, public land which has not been dedicated or managed for recreation/conservation use may be used as replacement land even if this land is transferred from one public agency to another without cost.

(5) In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved, the unconverted area must remain recreationally viable or be replaced as well.

(6) All necessary coordination with other Federal agencies has been satisfactorily accomplished including, for example, compliance with section 4(f) of the Department of Transportation Act of 1966.

(7) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 6(f)(3) action. In cases where the proposed conversion arises from another Federal action, final review of the State's proposal shall not occur until the NPS Regional office is assured that all environmental review requirements related to that other action have been met.

(8) State intergovernmental clearinghouse review procedures have been adhered to if the proposed conversion and substitution constitute significant changes to the original Land and Water Conservation Fund project.

(9) The proposed conversion and substitution are in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreation plans.

(c) *Amendments for conversion.* All conversions require amendments to the original project agreements. Therefore, amendment requests should be submitted concurrently with conversion requests or at such time as all details of the conversion have been worked out with NPS. Section 6(f)(3) project boundary maps shall be submitted with the amendment request to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the State's request for a conversion. In such cases, an express commitment to satisfy section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment will be in the form of an amendment to the grant agreement.

(d) *Obsolete facilities.* Recipients are not required to continue operation of a particular facility beyond its useful life. However, when a facility is declared obsolete, the site must nonetheless be maintained for public outdoor recreation following discontinuance of the assisted facility. Failure to so maintain is considered to be a conversion. Requests regarding changes from a L&WCF funded facility to another otherwise eligible facility at the same site that significantly contravene the original plans for the area must be made in writing to the Regional Director. NPS approval must be obtained prior to the occurrence of the change. NPS approval is not necessarily required, however, for each and every facility use change. Rather, a project area should be viewed in the context of overall use and should be monitored in this context. A change from a baseball field to a football field, for example, would not require NPS approval. A change from a swimming pool with substantial recreational development to a less intense area of limited development such as a passive park, or vice versa, would, however, require NPS review and approval. To assure that facility changes do not significantly contravene the original project agreement, NPS shall be notified by the State of *all* proposed changes in advance of their occurrence. A primary NPS consideration in the review of requests for changes in use will be the

consistency of the proposal with the Statewide Comprehensive Outdoor Recreation Plan and/or equivalent recreation plans. Changes to other than public outdoor recreation use require NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraphs (a) through (c) of this section.

[51 FR 34184, Sept. 25, 1986, as amended at 52 FR 22747, June 15, 1987]

§ 59.4 Residency requirements.

(a) *Background.* Section 6(f)(8) of the L&WCF Act prohibits discrimination on the basis of residence, including preferential reservation or membership systems, except to the extent that reasonable differences in admission and other fees may be maintained on such basis. This prohibition applies to both regularly scheduled and special events. The general provisions regarding non-discrimination at sites assisted under Interior programs and, thereby, all other recreation facilities managed by a project sponsor, are covered in 43 CFR part 17 which implements the provisions of Title VI of the Civil Rights Act of 1964 for the Department.

(b) *Policy.* There shall be no discrimination for L&WCF assisted programs and services on the basis of residence, except in reasonable fee differentials. Post-completion compliance responsibilities of the recipient should continue to ensure that discrimination on the basis of residency is not occurring.

(c) *Fees.* Fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents. Recipients are prohibited from providing residents the option of purchasing annual or daily permits while at the same time restricting nonresidents to the purchase of annual permits only. These provisions apply only to the approved 6(f)(3) areas applicable to the recipient. Nonresident fishing and hunting license fees are excluded from these requirements.

§§ 59.5-59.6 [Reserved]

**Project: Verification of DeReef Park
LWCF Section 6(f)(3) Boundary Map
LWCF Project Numbers 45-00856
and 45-00985**

Original DeReef Park Boundary
Current Parcel Boundaries 2015

Properties never owned by the City

DeReef Park (aka Radcliffborough Park)

City Acquisition Details

- 4/14/1972 - Deed F99-149
- 2/19/1980 - Deed U121-088
- 3/18/1981 - Deed A125-321
- 3/23/1981 - Deed Y124-301
- 11/9/1982 - Deed B130-259
- 4/25/1988 - Deed D174-711

Parcel Labels

Lot number as identified on Plat Q-006

End digits of the tax map number assigned by Charleston County (tax map 460-12-01-###)






map provided by City of Charleston GIS
printed: 4/23/2015





Location Map



**Project: DeReef Park LCWF
Section 6(f)(3) Boundary Map - Partial
Conversion
LWCF Project Numbers 45-00856
and 45-00985**

-  New DeReef Park Conversion Boundary
-  Original DeReef Park Boundary
-  DeReef Park Remaining 6(f)(3) Area
- Current Parcel Boundaries 2015

Parcel Labels

-  Lot number as identified on Plat Q-006
-  End digits of the tax map number assigned by Charleston County (tax map 460-12-01-###)

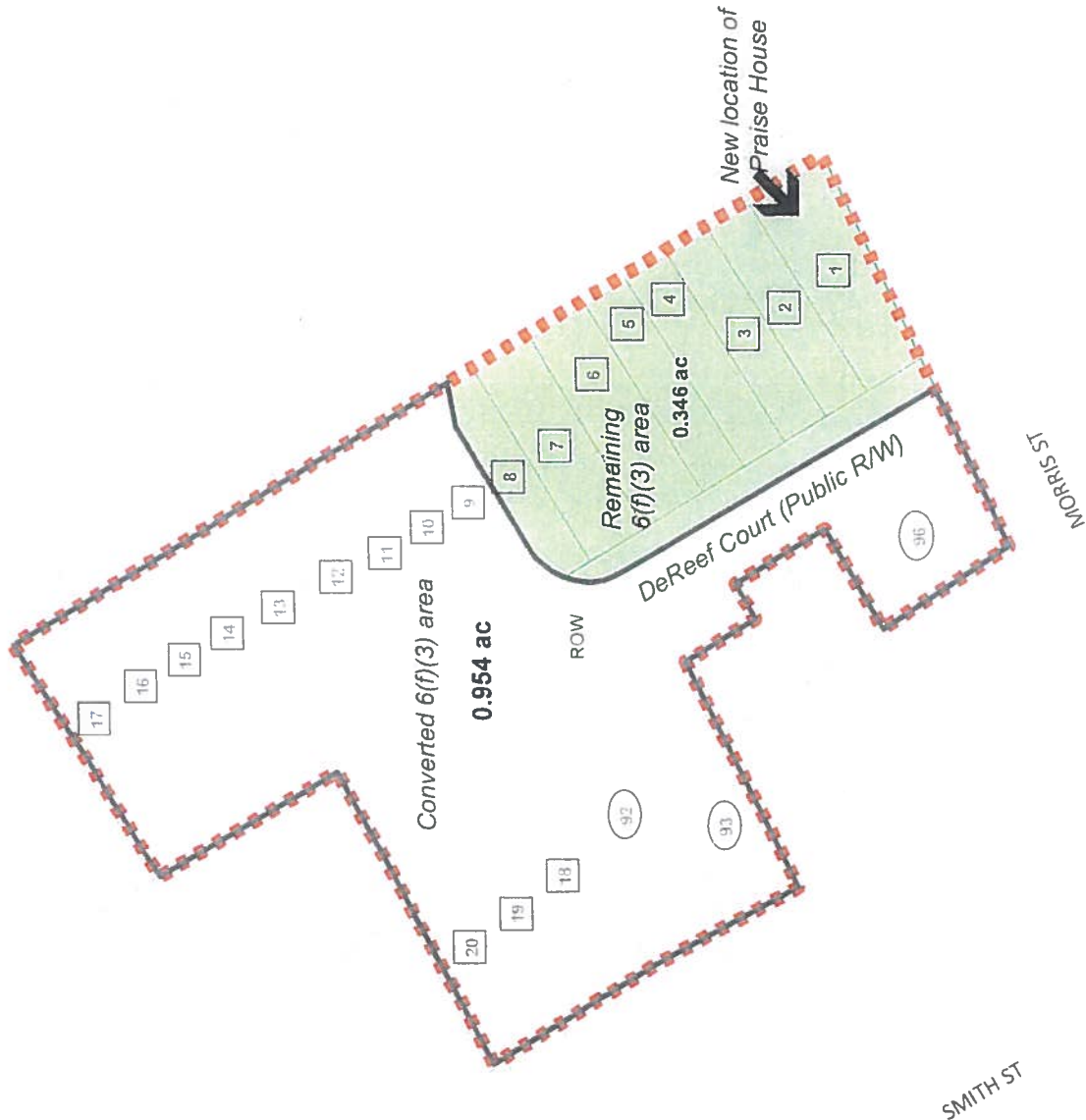
Acreages

Total Acreage: 1.3 acres
 Area to be converted: 0.954 acres
 Area not being converted: 0.346 ac (green)



1 inch = 70 feet

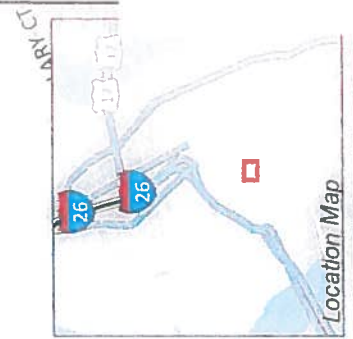
map provided by City of Charleston GIS
 printed: 4/23/2015



SMITH ST

MORRIS ST

JASPER ST



US Census Demographics Data for Census Tracts 6, 7 10 & 11, Charleston, SC

Census Tracts in which a Population Majority is within 1/2 Mile Radius of Dereef Park

	Census 1980		Census 1990		Census 2000	
	Total	Percent	Total	Percent	Total	Percent
Total Population	10,863		8,997		9,226	
Total Population:						
Male	1,256	46.1%	8,997	45.9%	9,226	46.4%
Female	579	53.9%	4,126	54.1%	4,279	53.6%
	677		4,871		4,947	
Total Population:	10,863		8,997		9,226	
Under 5 years	727	6.7%	589	6.6%	333	3.6%
5 to 9 years	687	6.3%	526	5.9%	393	4.3%
10 to 14 years	798	7.4%	488	5.4%	415	4.5%
15 to 17 years	650	6.0%	266	3.0%	281	3.1%
18 to 24 years	1,956	18.0%	2,176	24.2%	3,435	37.2%
25 to 34 years	1,543	14.2%	1,476	16.4%	1,245	13.5%
35 to 44 years	830	7.6%	950	10.6%	876	9.5%
45 to 54 years	939	8.6%	696	7.7%	799	8.7%
55 to 64 years	1,152	10.6%	658	7.3%	550	6.0%
65 and 74 years	967	8.9%	686	7.6%	440	4.8%
75 to 84 years	494	4.6%	356	4.0%	344	3.7%
85 years and over	120	1.1%	130	1.4%	115	1.3%
Total Population:	10,863		8,997		9,226	
White	1,592	14.7%	2,411	26.8%	4,197	45.5%
Black	9,144	84.2%	6,485	72.1%	4,806	52.1%
Housing units	4,225		4,135		4,408	
Occupied Housing Units:						
Owner Occupied	3,840	24.1%	3,347	26.5%	3,677	24.0%
Renter Occupied	927	75.9%	888	73.5%	884	76.0%
	2,913		2,459		2,793	
Non-Family Households	1,437	36.6%	1,656	49.5%	2,355	64.1%
Median Household Income (2013 Dollars)	\$7,640 (\$24,515)		\$11,447 (\$21,505)		\$14,910 (\$20,849)	

Source: US Census Bureau decennial Census data (SF-3); American Community Survey (ACS) data.

US Census Demographics Data for Census Tract 10, Charleston SC

Census Tract Including Dereef Park

	Census 1980		Census 1990		Census 2000	
	Total	Percent	Total	Percent	Total	Percent
Total Population	3,090		2,107		1,991	
Total Population:						
Male	3,090		2,107		1,991	
Female	1,344	43.5%	935	44.4%	1,002	50.3%
	1,746	56.5%	1,172	55.6%	989	49.7%
Total Population:	3,090		2,107		1,991	
Under 5 years	246	8.0%	137	6.5%	73	3.7%
5 to 9 years	236	7.6%	130	6.2%	100	5.0%
10 to 14 years	246	8.0%	158	7.5%	115	5.8%
15 to 17 years	190	6.2%	71	3.4%	67	3.4%
18 to 24 years	385	12.5%	228	10.8%	458	23.0%
25 to 34 years	419	13.6%	332	15.8%	287	14.4%
35 to 44 years	253	8.2%	265	12.6%	214	10.8%
45 to 54 years	282	9.1%	203	9.6%	225	11.3%
55 to 64 years	369	11.9%	182	8.6%	151	7.6%
65 and 74 years	307	9.9%	232	11.0%	143	7.2%
75 to 84 years	129	4.2%	125	5.9%	120	6.0%
85 years and over	28	0.9%	44	2.1%	38	1.9%
Total Population:	3,090		2,107		1,991	
White	56	1.8%	113	5.4%	567	28.5%
Black	3,001	97.1%	1,988	94.4%	1,401	70.4%
Housing units	1,187		1,141		1,100	
Occupied Housing Units:						
Owner Occupied	1,187		880		865	
Renter Occupied	1,088	91.7%	277	31.5%	249	28.8%
	99	8.3%	603	68.5%	616	71.2%
Non-Family Households	362	31.1%	348	41.3%	470	54.3%
Median Household Income (2013 Dollars)	\$6,381 (\$20,475)		\$11,866 (\$22,292)		\$17,381 (\$24,304)	

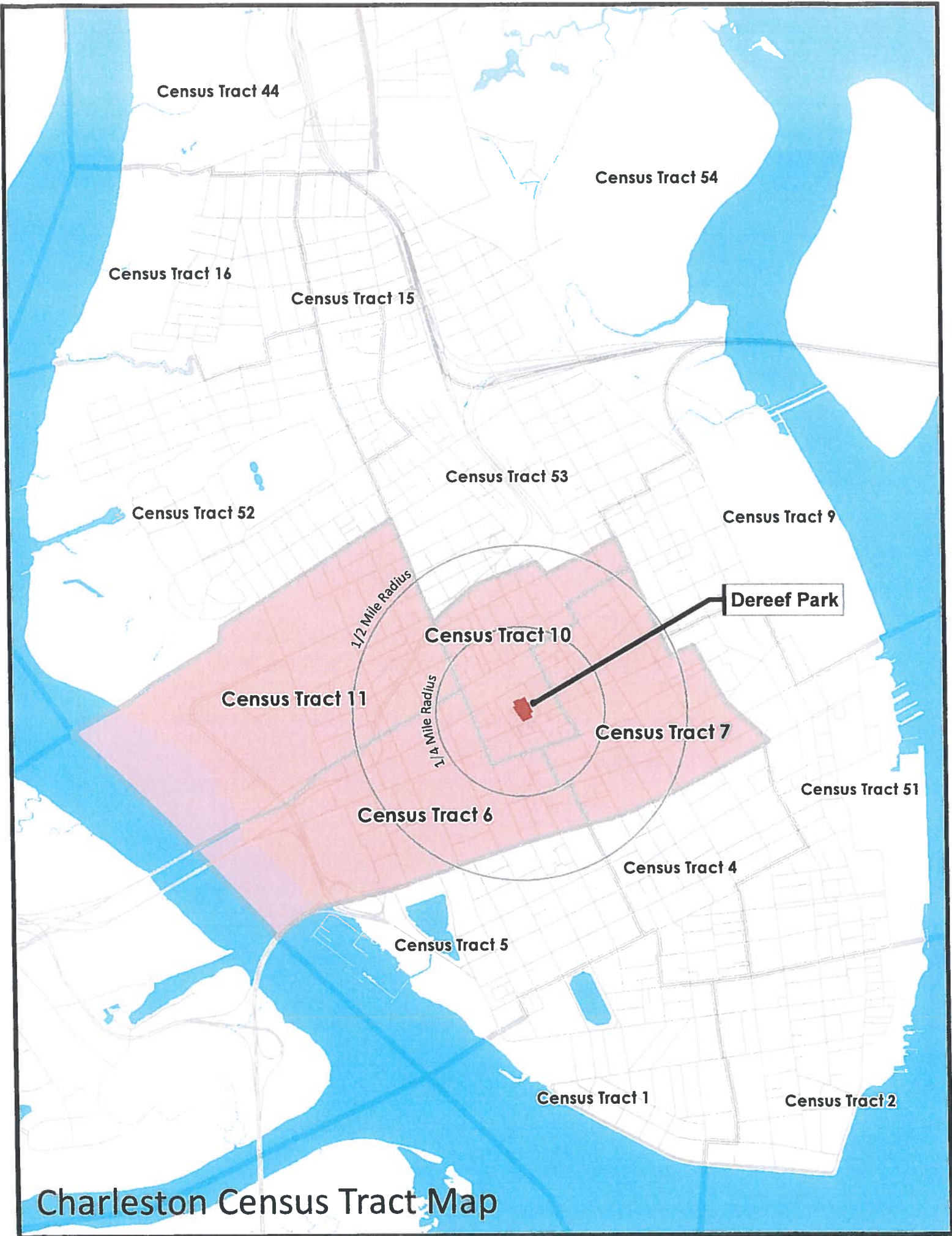
Source: US Census Bureau decennial Census data (SF-3); American Community Survey (ACS) data.

US Census Demographics Data for all of Charelston, SC

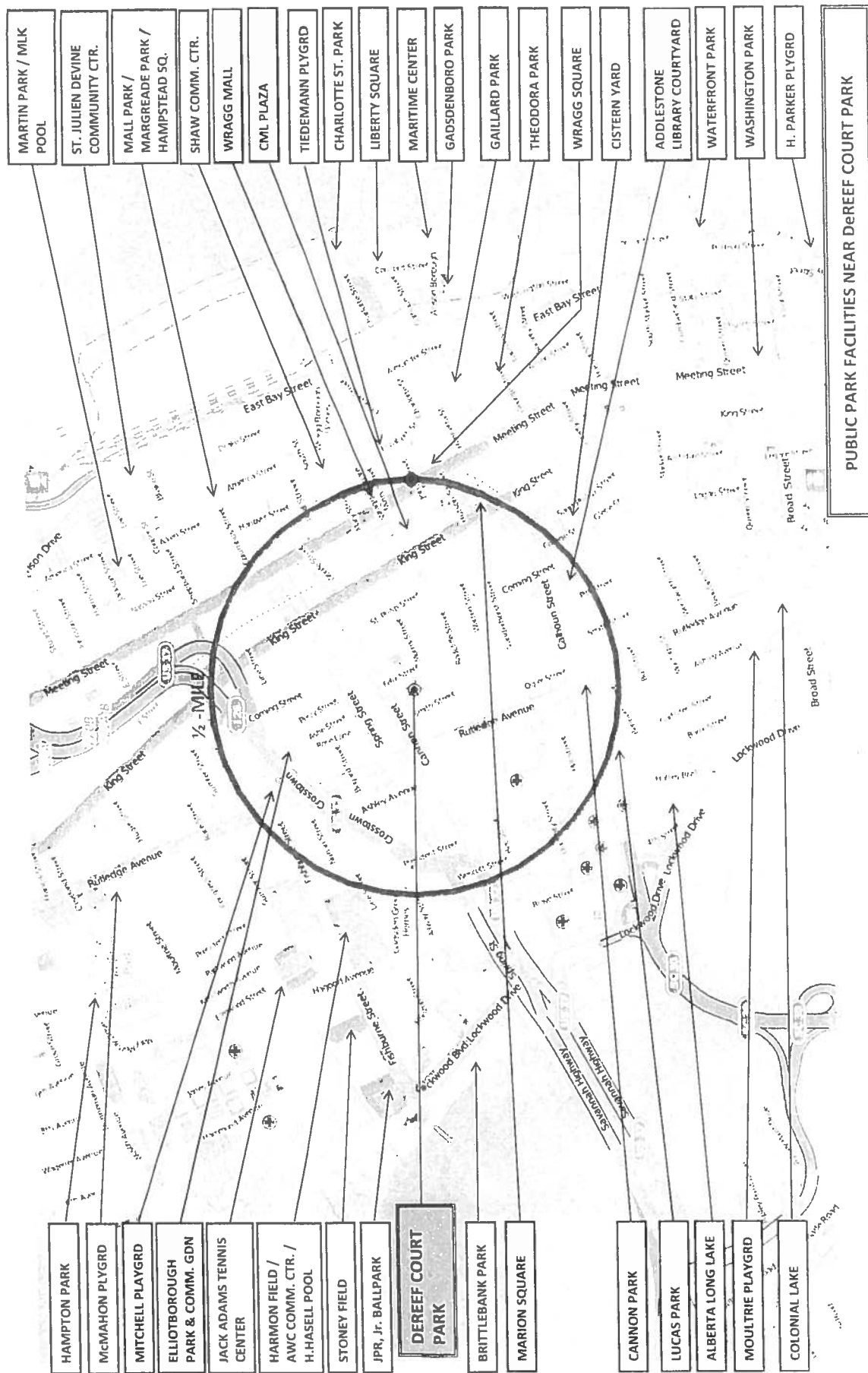
All Area within City of Charleston Boundaries

	Census 1980		Census 1990		Census 2000	
	Total	Percent	Total	Percent	Total	Percent
Total Population	69,510		80,414		96,650	
Total Population:						
White	69,510	52.7%	80,414	57.2%	96,650	63.8%
Black	36,632	46.5%	46,023	41.6%	61,615	34.4%
	32,318		33,439		33,268	
Median Household Income	\$13,486		\$24,029		\$35,295	
(2013 Dollars)	(\$43,273)		(\$47,254)		(\$45,142)	

Source: US Census Bureau decennial Census data (SF-3); American Community Survey (ACS) data.



Charleston Census Tract Map



PLANNING COMMISSION

August 21, 2002

A meeting of the Planning Commission was held on this date at 5:00 p.m. at 75 Calhoun Street. Notice of this meeting was sent to all local news media.

PRESENT

Mr. Francis McCann, Chair; Mrs. Barbara Ellison, Mr. Gordon Geer, Mr. Charles Karesh, Mrs. Susan Legare, Ms. Sunday Lempesis, Ms. Valerie Perry and Mr. Keith Waring. **STAFF:** Lee Batchelder, Zoning Administrator; Yvonne Fortenberry, Director, Design, Development and Preservation, and Amanda Herring, Planner I.

3. **3, 5, 7, 9 DEREEF COURT, 80 MORRIS STREET, PROPERTY ON MORRIS STREET AND PROPERTY ON MARION STREET (TMS# 460-12-01-095, 094, 092, 090, 096, 134 & 460-12-03-082) 3.296 ACRES** Request rezoning from DR-2 (Diverse Residential) and LB (Limited Business) to DR-2 & MU-1 PUD (Planned Unit Development). Owner: City of Charleston, Shiloh AME Church, Cannon Street YMCA Applicant: Civitas Contact: Macon Toledano, Civitas

Mr. Karesh recused himself and left the meeting room. Mr. Karesh later left the meeting due to a prior commitment and after receiving information from Chair McCann that it appeared that the hearing on this application was going to be extensive.

The application concerned several parcels of land located within the Radcliffeborough, Cannonborough, and Elliotborough neighborhoods on the peninsula. The parcels laid on both the north and south sides of Morris Street between Jasper and Smith Streets.

Mr. Batchelder said the proposed development was an "exciting redevelopment" of this neighborhood. It would include a variety of residential development, some commercial development, and new parks and open spaces. He said it was an ambitious development in that it included properties that are owned by different entities. The park property was owned by the City of Charleston. It also included the reconstruction and alteration of several public streets. He said all of these changes fitted into a plan that had been developed over the course of a few months.

Mr. Batchelder said the rezoning from a combination of multi-family and commercial to planned unit development zoning would include new restrictions for residential development on this site and commercial development within certain locations on the property. It would also include new standards for street rights-of-way and other open spaces that would be constructed on the property.

The total acreage of the planned unit development, including the portions of the public streets included in the PUD, is 3.296 acres. Mr. Batchelder noted that this was a large site for an urban area. There were not too many sites this size within residential areas on the peninsula area that offered the kinds of opportunities for development that this site did.

Mr. Batchelder said the staff was very excited about the plan that had been developed. The staff recommended approval with a few minor conditions. The document that has been developed has been revised over the past few weeks. Mr. Batchelder distributed copies of the document to the Commission.

Mr. Batchelder said in a planned unit development zoning, they tried to set forth general zoning guidelines that would ensure that the vision that was being presented would become a reality after the several years of development that took place. He said the document he just distributed contained those kinds of regulations the staff felt were important to guarantee the integrity of the plan as it moved forward and was developed over time.

Mr. Batchelder noted that on page 2 there were many different entities that owned property in that area. It also listed the acreage, the current zoning of the property, the rights-of-way and the city park property.

Page 6 of the document listed the zoning districts that were being zoned. Mr. Batchelder said that there were two residential zoning districts. One of the districts had more restrictive regulations that would be a transition from the existing neighborhoods, especially along Smith, Jasper, and Marion Streets, into the project, and also for those areas on the north end above Morris Street that were more isolated from the main streets in the neighborhood. One family detached or two family dwellings would be allowed. The lot

occupancy limitations for construction homes and setback requirements would be similar to those of the existing zoning category.

The other district, SMR2 district, was intended to apply to certain areas that were mainly around the proposed parks. This would be a higher density zoning classification that had no setbacks, very high lot occupancies of buildings on lots, and more intensive development.

The SMC zone district would be applied to parcels of land adjacent to what was proposed to be an open air plaza at the intersection of Morris Street and Jasper Street, would allow for a variety of residential unit types, as well as specific types of office and retail uses.

The SMLB district was intended to apply specifically to a piece of property owned by the YWCA. Mr. Batchelder said this was an attempt to preserve the existing zoning for that property that was currently in place so that it could or could not be included in this project.

Mr. Batchelder said the height restrictions that would apply to this property remain unchanged. The entire property fell within the current 50/25 Height District and this could not be changed by increasing the allowed height. He said one could always change it to make it worse but it would not be increased in relation to the PUD.

Parking and loading space requirements have been modified to reflect the different types of the proposed residential developments and the pattern of development.

Mr. Batchelder said there were a new set of standards for how to change the streets or build new streets in this development. The details of and the changes to those streets would have to be approved by the Engineering Division and the Department of Traffic and Transportation as the project moves forward. He said the same would apply for storm water drainage. Storm water drainage would be addressed later as the project progressed through the permitting process.

Mr. Batchelder said the area was really in need of redevelopment. A city park that was constructed during the late 1980's was not attractive and not well utilized. He said it was difficult to think of it as a park because it was so isolated from the neighborhood. The staff felt that this was the opportunity to change that situation for the better and provide an opportunity for new residential development in this area.

The staff recommended approval with two conditions: (1) Mr. Batchelder said he had discussed changing the lot occupancy limitations for SMLB zone. He said they were proposing to reflect the current standards for Limited Business – 50% for residential development and 100% for mixed or non-exclusive residential development. He said they did not make that change in the actual document. (2) The proposed changes to traffic circulation on Jasper and Marion Streets, which were currently two-way streets and proposed to become one way streets, needed approval through the formal Traffic and Transportation process.

Mr. Batchelder said applicant was adding language that would address the regulation of building height, scale, and mass. He said with developments of this size, there was always the concern that there might be a pattern where there is the desire to max out the development on this property, and take advantage of the minimal setback and lot occupancy restrictions to result in a project that does not really reflect the amount of variety in the neighborhood. The wording attempted to set forth a way of accomplishing that variety by saying that a neighborhood code would be submitted with the planned unit development application and the applicant would set forth a set of community overlay requirements that are intended to produce variations in height, scale and mass of homes within the redevelopment of this part of the neighborhood. To accomplish this goal, these requirements would induce the match of building envelope established by the height and area setback regulations set for in the development guidelines for specific building sites within the Smith/Morris PUD. All building sites within the Smith/Morris PUD would be covered by this community overlay requirement.

The proposed PUD zoning district and plan required diversity in building types and configurations, including single-family detached, row houses, and multi-family dwellings. The Community Overlay Requirements would specify diversity of not only building types but also in specific building components such as roof types, entry types, and elevations. Some of these should be more planar in nature while others would require porches and balconies. In consideration of the existing context, particular sensitivity should be given to lots and homes fronting on Jasper and Marion Streets, especially in those locations where no homes would be constructed across from existing historic structures. The Community Overlay

requirements will be developed in coordination with the Department of Design, Development and Preservation, neighborhood residents and interested organizations. It will be subject to final approval by the Department of Design, Development and Preservation. Applications to the City's Board of Architectural Review for construction of buildings within the Smith/Morris PUD will not be submitted until the Community Overlay requirements have been approved by the Department of Design, Development and Preservation. The Community Overlay requirements are not intended to restrict in any way the ability of the Board of Architectural Review to further to restrict height, scale and mass of buildings during this normal review process.

Mr. Batchelder said this is an attempt to put into the Zoning regulations an additional step above and beyond the normal process of developing this Community Overlay requirement for adding variety to the height, scale and mass of buildings in the neighborhood. The staff would have that added to this set of PUD zoning guidelines to Subsection m.

Mr. Batchelder noted in the recommendations of the city's Public Service Department, their main concern was with a previous draft of the PUD regulations in consideration for stormwater drainage and how that would be addressed. The applicants have revised the language in the proposed document and satisfied the concerns of Public Service. The other recommendations by the Public Service Department are general statements that will be addressed as the project progress with the development of due process and the streets improvements are engineered.

Mr. Batchelder had a letter from Historic Charleston Foundation that he gave to Chair McCann.

In Favor:

Vince Graham, representing the applicant, introduced his partners Macon Toledano and David Agnew. He said together with their associates Allen Coleman and Pam Martin form Civitas, which is a company with offices on 440 King Street. Their designers and engineers were also present to answer questions.

Using Sanborn maps, Mr. Graham indicated on an 1888 map the location of a 1 acre parcel and what is now DeReef Park, which is owned by the Cannon Street YMCA and Shiloh AME Church. What it used to be about 100 years ago was some freedmen's cottages, other little houses mixed in and a four-story public school on the 1 acre parcel bounded by Jasper, Marion, Morris and Smith Streets. On a 1951 Sanborn map, the school and other buildings were demolished in the early 1970s and have been sitting vacant since surrounded by a chain link fence.

Mr. Graham said they have always been inspired by the City and use that inspiration to give back in the development of other neighborhoods that they are involved in building elsewhere in South Carolina and throughout the southeast. They wanted to do something in their "backyard" and this is five blocks away from their office. At first they were just looking at the 1 acre owned by the synagogue and they got that under contract. They approached Mr. Keane about it and he suggested they explore the DeReef park site. They contracted to purchase the 1 acre and began working on the bigger picture as suggested by City staff.

Mr. Graham said they adopted a set of principles. He would address some of the elements of the principles, the concepts and their approach to the redevelopment of this site. They were involved in building l'On in Mount Pleasant and New Point in Beaufort on Ladies Island. Their approach was to come at a site from the public realm. They aim to either develop anew or redevelop the public realm in such a way that it will add value to and complement the private realm of surrounding homes, and guide the development of the private realm so that they will, in turn, add value to the public realm. He noted ideally you end up with a situation where the whole is greater than the sum of the parts and this is how they create value and create aesthetic value, social value and economic value.

Mr. Graham shows slides of homes on a street in l'On. There are a range of sizes and price ranges in the neighborhood. The emphasis is on quality rather than quantity, as a lot of real estate is built on the basis of quantity or how many square feet one can get for the dollar. Their emphasis on quality enables them to have the mix you see everywhere downtown. He remarked these homes are not to indicate the kind of houses that will go on the site. While they are partial to the Low Country vernacular, it is not to indicate their approach to the public realm. In the slides showing New Point, he noted it shows the Green, a park

along the Intercoastal Waterway, the homes overlook the Green off to the Intercoastal Waterway and everyone has access to that park, which they felt enhances the value of the surrounding homes

They put together a conceptual plan and they began to meet with several different organizations and individuals including City staff, Robert Russell and Robert Ballard of the Radcliffeborough Neighborhood Association, Rev. Sidney Davis with the Cannonborough/Elliottborough Neighborhood Association, members of the Historic Charleston Foundation, Charleston Preservation Society, Cannon Street YMCA, Rev. Williams of Shiloh AME Church, Dwayne Green and Tony Bostic.

There are 65 proposed homes, six (10%) would be designated affordable homes, nine would be in a condominium building and the remainder would consist of detached and attached single-family homes. The public realm components would consist of a little "piazza" with a corner park with the multi-family building overlooking that, which they hoped would have a commercial use, a very small scale coffee shop or something similar that overlooked the fountain and the piazza. There would also be an extended park system consisting of a playground and a formal park that's tied together by a pedestrian walkway. There is an old church on the site that as a part of their application they will renovate it on behalf of the City. The City would keep it. It would be a civic use. Shiloh AME Church could hold the keys but it would be a community building for different functions such as meetings or something that the YMCA or church was putting on for plays or something of that nature.

The key when they were thinking about these parks was they did not want this to become an exclusive development. They want people to feel welcome. They did not want a name for it. It is in some of the neighborhoods. The parks would be a part of the neighborhood. They don't have the final details of each park. This is a general plan but they want to work to make those very hospitable and welcoming so everyone feels like it's their park and it's not just the new homes that will be built here.

Also critical to the site is the design of the streets, making it comfortable and very pedestrian oriented so people feel welcome and excited to come out from their homes to be in the public realm. In reference to parking, the code required for 65 units 128 parking spaces (one for every multi-family unit and two for every single-family unit). The plan showed about 142 off-site parking spaces for every single-family home, one for the multi-family component and on-street parking. This did not include current parking along Jasper and Morris Streets.

Mr. Graham said they are very enthusiastic about this. There are a lot of details yet to be worked out, including the swap with the City. They have started to explore the market for these homes. The homes would be owner occupied homes. Home types would start at from \$225,000 to \$250,000 and up. This is not including the six designated affordable sites. They have begun to realize there is a concern about students taking over these houses. They have started to explore that with Bill Base, a Charleston based attorney who specializes in this. They have discussed putting in a covenant that there be no more than two people unrelated by blood or marriage living in a home. They are just investigating this to see if they can do this legally.

In response to a question by Mr. Waring regarding the cost of the affordable homes, Mr. Graham said they were working with Pat Crawford of the City's Department of Community Development and others on this issue. It is 80% to 120% of the median income. He didn't know how much that total would be.

Ms. Perry said with the affordable housing unit with the new zoning in place, you don't have to have any off-street parking. She asked if they were still going to have off-street parking for the affordable units.

Mr. Graham said yes, they planned to have off-street parking for them.

Ms. Perry asked if the affordable housing would be condominium units or single-family.

Mr. Graham said they think they will be single-family, either attached or detached. Ms. Perry concluded that they will have at least two. Mr. Graham said yes. Mr. Toledano added their idea is that they will be dispersed throughout the project. They will not be isolated. What they are trying to do with the different housing types and different forms that make up the project just to include diversity of housing opportunities and with respect to that affordable housing should be throughout the project. There could be some single-family, some attached and some multi-family.

Mr. Waring asked if they spoke to Councilmember James Lewis about this. Mr. Toledano said yes. Mr. Waring asked if Councilmember Lewis agreed with this.

Mr. Agnew said he met with Councilmember Lewis twice and discussed the details of the plan. Councilmember Lewis supports the plan. Mr. Agnew added before this goes before City Council many of the details will have to be worked out and they will come up with a plan that is agreed to by the City and City Council.

Mr. Karesh asked who came up with 10%. Mr. Graham said they did. Mr. Karesh asked if that is what they could afford to invest in affordable house. Mr. Graham said yes.

Mr. Karesh said there are several brackets of affordable housing— very low, low, moderate. So if they are saying affordable housing type loosely, it's a conflict. The Mayor is saying he has a \$10 million affordable bond yet we have this going on and it's strange.

Mr. Toledano said they are under no obligation for affordable housing. They thought it would be a good idea giving the nature of the neighborhood and they hoped to have diversity throughout the project. With both income house types, to bring in an affordable component to make sure that it's there, to add that component and reinforce that tie into the neighborhood. It is just something they took on their own. They thought it would be a good idea.

Mr. Geer said he liked what he's seen so far but in terms of all the property they have under contract , are there any components that might fall out and how that would impact the zoning the Commission would apply to if a piece fell out of it.

Mr. Graham said the zoning department was careful about addressing that issue. In the PUD it stipulates that the density associated with any single parcel can't exceed the existing density requirement. The only way they can be redistributed from the PUD is if that ownership is participating.

In response to a question from the audience regarding why the corner of Jasper and Morris Streets had different coloring on the plan from the other properties, Mr. Graham said their objective is primarily to create a corner urban park, which would create a gathering place for people in the neighborhood to meet and if you get a good commercial use in there would enhance that as a gathering place of the neighborhood. One option to do that would be to introduce special street material to demarcate the corner. The plan here is that the streets don't continue through. That's not in any way to indicate that that is not a continuous street.

Responding to another question in reference to if they are treating the curb going down Morris Street any different than the existing curb, Mr. Graham said no. The only thing they were proposing to do is to make down Morris Street a little narrower to slow down the speed down.

Mr. Toledano said they have to go through technical review process before they can make any changes to that. They thought it would nice if they could introduce some design components there to enhance the street but only with the permission of the engineers and the Technical Review Committee. Landscaping would be one way to do that. What they suggested is that in addition to trying to calm traffic by making down that area, they might introduce some kind of landscaping that might enhance the street.

Robert Gurley of the Preservation Society of Charleston said this is a very ambitious project. They appreciate the applicants allowing them to comment on the project and work with them. They have met with them twice. Their concern was that there be a diversity of height, scale and mass in this project. What they are trying to do and what they hoped would be accomplished here is that this development would seamlessly weave itself into the context of the surrounding historic neighborhood. They think the variations of height, scale and mass are critical to achieve that. The Society believed with requirements such as this in place this can be a very worthwhile, and they believed it is now a very worthwhile, project. They looked forward to working with the applicants as this process continues.

Joe Sokol, member of Brith Shalom Beth Israel congregation, which is adjacent to the west of this project, said they applicant have worked closely with them and keeping them advised of all of the plans and changes. He had never seen anyone try hard to make it perfect. They are trying and bending over backwards to make this a very beautiful project to restore the neighborhood to livability and be a credit to the City of Charleston.

Dwayne Green, board chairman of Cannon Street YMCA, said they met with the applicants on several occasions and reviewed the plans. They have also discussed the plans with the members of the organization. Cannon Street YMCA owns the parcel of land just north of this proposal. A parcel of the YMCA's land will be included in the proposal. There is across the board enthusiasm about the project. They thought it fit in well with what they like to do as an organization as they serve the kids in the neighborhood. They were in favor of the project and recommended it to the Commission. They think it is wonderful for the neighborhood.

Carl James said his mother owns the corner of Smith and Morris Streets. He liked the way they were developing the area. He wanted to point out some concerns. He felt affecting Morris Street like that is going to make this neighborhood stick out from the rest of the neighborhoods surrounding it. The way it is set up with the commercial corner, that approach comes to some sort of water element to the condo and that is a sense of entrance into something. Looking down the street, differently from the rest of the street, is making something that's not in conjunction with the rest of the neighborhood, making it adversely makes sense of an exclusive area within the neighborhood, which he hoped they weren't trying to do. The different touches to the surface of the street is something that is approaching what is already existing in the neighborhood and trying to change it to adapt it into this plan.

Robert Russell, president of the Radcliffeborough Neighborhood Association, said he had a chance to work with Civitas since last winter when they approached them about what they were doing. The neighborhood is behind the project. He said they tapped into one of these many curious traditions of Charleston Peninsula City, particularly the one of these fungible courts. In the 19th century through the middle of the 20th century, one of the characteristics of the peninsula was the frequent appearance and disappearance of these small little streets with houses all around them. DeReef Court is a vestige of that. There is one another in the neighborhood on Desportes Court. This went back to an old peninsula tradition of building these very small streets and putting lots of houses around them. He said historically he appreciates that.

Mr. Russell noted the neighborhood hates to lose the big field but it was going to go one way or the other. They are in favor of the project.

Dana Beach of 26 Gibbes Street said in projects like this it is important to have a developer who will carry through and follow the detail of planning to its realization. He thinks these developers have exhibited an almost uniquely admirable record in that regard. He supports approval of the project.

Michael Maher of 11 Marion Street and director of the City of Charleston Civic Design Center, said he has met repeatedly in his role as Civic Design Center with the development team working through many of the details and felt the project has progressed positively. He wrote a letter in anticipation of not being able to attend the meeting and submitted it to the Chair.

Mr. Maher said there are two issues that need discussion about development downtown. Providing green space is an issue and providing more affordable housing opportunities is a major issue downtown. He think this project addresses those situations quite specifically and quite well. It is an ambitious project and ambitious in taking on these very large issues within an individual project. For these reasons and other reasons further outlined in his letter, he supports the project. He added carrying through many of the details will make this project even better than how it looks.

Henry Copeland, a resident of Archdale Street, noted 60% of his annual income goes toward housing he doesn't own. This is something for which he would be able to be qualified. If people like him in positions like his who have traditionally lived on the peninsula, grew up on the peninsula and went to school on the peninsula do not have an alternative like this soon, he will be leaving the peninsula and, like 9 out of the people he grew up with, will not be coming back. He thought it is about the development team it's not just what they in the documents, it is what they have done. He think they have been not only committed by demonstrating this and meeting with various people, but he understood and is familiar with the fact that the development team has also been involved with a volunteer program to help develop the open space at Memminger Elementary School.

Rev. Williams of Shiloh AME Church, 72 Smith Street, said they support the proposed project mainly because of the low-income housing that they are planning and will uplift the neighborhood.

Ian Walker of 14 Jasper Street said he was for it and was not against it. He thought it was a very innovative, interesting and unusual concept the way it would all work and pull together. He did have some reservations about the density of the property. 65 units is a lot especially if you're getting to that density by including the streets. He noted if he could include the street in front of his house or half of it as a part of his lot to increase his density it would be great but he can't.

Mr. Walker questioned if they have taken into consideration the flooding problem that occurs on the corner of Marion and Smith Streets, and Morris and Jasper Streets. It becomes lakes when it rains. No one is going to park there. That would crimp a lot of the parking that would be used normally by people. They won't park there because their car would be flooded.

Mr. Walker said there is a lot of people in that area and they have done a masterful job of fitting it all in and giving them enough places to park. He thinks making the street narrower would cut down on the number of places people would have to park. He thought the overall concept of the design is very interesting and would be an improvement for the neighborhood.

Ruthie Smythe, a downtown resident and real estate broker with Lane and Smythe on Broad Street, said she was in support of this infill project and support any infill project in downtown Charleston. She was not clear whether or not the parking that they heard tonight will be an absolute or will it be able to be changed. She noted the City adopted new zoning for affordable housing recently and one of the stipulations states if it is a single-family residence off-street parking is not needed. This area is very close to the College of Charleston, MUSC and Ashley Hall. She think they needed to look strongly at what kind of parking issues they have going on in that area with 65 more residential units going in, plus some commercial development.

Ms. Smythe expressed concern about the narrowing down of Morris Street as it would not fit in with the present neighborhood. It would be changing the neighborhood. She remarked in her showing property in l'On, while they have done a beautiful job, the streets are very narrow. If one is having a party at their house and have guests parking on the street, she had a difficult time getting around big cars in her Volvo wagon. She would be concerned about that happening on Morris Street, which can be a heavily traveled street at times.

Ms. Smythe said although she knew the suggested price range is around \$225,000 to \$250,000, she was it could jump up by the end of the project but she also knew who buys in that price range in downtown Charleston. It's the College of Charleston buying for their kids. She realized that although the developer was exploring with their attorney some sort of limitation on that, she didn't know if that was going to work. She wanted to see some sort wording in there that if it doesn't work, that's addressed.

Glenn Gardner of 51 Cannon Street said there is a lot of excitement in their neighborhood about what can become of what is now a bland area. There is an urban fabric there, the guideline is there, the quality is there but it needs to be enhanced. What the plan is beginning to generate there will add to their neighborhood and become a positive aspect of the city.

John Zervos of 64 Vanderhorst Street supports the project. The developers' reputation speaks for themselves on how they attempted to respect the existing neighborhood with regards to all the facets of it. In reference to the density, he understood that the breakdown of different types of whether its townhomes, condos, condo building or single-family detached, those densities have been granted in the neighborhood to other developers and home builders. He didn't think they were increasing the density. He also understood the parking is beyond the city's requirement.

Opposed:

Richard Gregory said while he was not entirely opposed to the project, he was concerned about some issues in the project. He is also a developer and is pro-density and pro-development. He has built three developments in this neighborhood and have two developments still under development. He said unlike Mr. Zervos said, the densities are not consistent with the densities in this neighborhood or the densities that have been allowed for his projects.

In his project, Radcliffe Place, his average lot size is 2300 square feet. He has done a project at the corner of Vanderhorst and Smith Streets where the average lot size is 2400 square feet. The project still under development at Morris and Felix Streets has an average lot size of 2700 square feet. What he read

in the developer's proposal is they want to have lot sizes as small as 550 square feet. That is 1/5 the size of the density of his project that is adjacent to that. He think there is a major variation there that is 100% inconsistent.

Mr. Gregory was also concerned about the amount of parking in relation to the density. The density they are trying to achieve does not leave adequate room for parking. He knew this neighborhood as well as any developer and he knew who buys new homes. He knew in the price range of \$225,000 to \$250,000 called affordable housing college students will buy them. When the college students move in the houses there are at least three, four or sometimes five cars. That will have a major impact on that neighborhood and that is not adequate parking.

Mr. Gregory concurred with Mr. Walker regarding the flooding. There is a lot of flooding and will be more after this project. That eliminates off-street parking. He thought the density was too high and needs to be completely reevaluated. He said it's a great project and great concept but the density is not reasonable.

Mr. Gregory said when he sought approval for his projects, the key thing the Board of Zoning Appeals (BZA) always asks for consistency with the neighborhood. He was in favor of a little variety but he was not in favor of taking 3 acres and doing something completely different than what is in the surrounding neighborhood. He cannot support that. He read some of the lot widths are 12 feet wide. If you went to look at the lots they are all 30 to 40 feet wide. There might be one or two lots that are 12 feet wide in the whole neighborhood but not the majority.

In reference to affordable housing, Mr. Gregory commented suppose they do sell the houses at \$225,000 but no one knows how much they will be selling for a year from now. The houses appreciate. A year into this project there is no more affordable housing.

Mr. Gregory said another concern was when he bought his land near the project, he bought it with the assurance that City was going to continue to have the park there. He is now looking selling houses that front houses instead of a park and it undermined the value of his property. He also added that instead of this before the BZA, it is going through Planning Commission and a lot of decisions are going to be made at this level. When it goes through the City Council, it is going to limit what Board of Architectural Review (BAR) will allow. In all of his projects, most of the houses have to be built up high and they want to put parking underneath. BAR was adamantly opposed to any kind of parking underneath the houses. If this project goes through with the density allowed, they only way they are going to achieve that density and get the parking requirements is to raise the houses and have parking underneath. It's not wrong but that was what he was told.

Mr. Gregory said he was in favor the project and he wanted to see it happen. He thinks it will enhance the neighborhood but he thinks the density needs to be totally reevaluated and lowered.

Anthony Bryant of 231 Huger Street said he has been advocating for affordable housing since he moved back home in 1991 from Morgan State University. He thought it was more the Planning department more so than the developers. There are proposed \$200,000 houses and there is a \$10 million affordable bond. He questioned what the direction for affordable housing is for people who make a certain amount of money a year income. He considered this a question a political question that he wanted to ask people.

Mr. Bryant noted you couldn't find a piece of property downtown due to the large amount of development occurring. He thought it began with a freedman's cottage that was in the Smith/Morris area. Culturally, he had some deep concerns in that one time this area was an African American business community and African American's lived in this neighborhood. He felt people were avoiding the question what is the average median income of African Americans in the City of Charleston. The average African American on the peninsula can't afford a house at \$200,000, although he did acknowledge there were a minority that could.

Mr. Bryant said those speaking on the behalf of the African American community as a whole will be challenged because the field can't benefit from the African Americans moving to North Charleston, Goose Creek or going to live in a trailer somewhere. He said they have to be sensitive and serious about cultural diversity in the City and have to really work on developed property, create more jobs and improve transportation. He expressed concern that a former executive assistant involved in this project denied affordable housing. He was going to ask Councilmember Lewis and some other people why they would

support something like this. They say they want affordable housing but where did they want it – James Island? Johns Island? He also indicated where his father, who is on a fixed income, lived on the peninsula the mortgage rates were rising so high in areas like Wagener Terrace and Hampton Terrace that his father couldn't afford to buy his house back if he wanted to do so.

Mr. Bryant heard some very liberal minded people here who advocated on a lot of liberal issues but he felt they were going to be challenged in 2003 because there is a racial problem in the City and they didn't want to deal with it. He concluded saying they were talking about height restrictions and other "pretty stuff" in view of the fact some of them don't want African Americans here anymore.

Rebuttal:

In reference to the comments regarding the density, Mr. Graham said density is based on the current density that is allowed for the property.

Mr. Toledano said the density is the current allowable density and dose not included the right-of-ways. DeReef Court right-of-way is large and is presently more than half occupied by the park. They cannot not count that and do not count that as the public right-of-way. It is entirely based on the vacant land parcels.

Mark Edison, an engineer with of Thomas and Hutton, addressed the drainage. He said it was challenging because the intersections that were mentioned, one is about elevation mean sea level origin 5.5. The other is 4.2. Normal spring tide is about 3 ½. It is tough to get water out when there is that much to deal with and there is a lot of area that drains there. They are working with the City to look at some options to do that. They will handle the drainage within the property. It doesn't make the problem that is already there any worse. They will try whatever they can do with the City and alleviate the problem that it concerns.

Mr. Graham said Mr. Gregory raised the lot width issue. They do have row house lots.

Mr. Toledano said they thought it would be nice, where like so many situations that you see in Charleston where you have a kitchen cottage, that they have some buildings that reflect similarity to that. Taking clues from the existing fabric and trying to repeat that, a little building like that might be a perfect place to do that. That occurs in this plan and that lot is the only one. Townhouse lots are typically about 18 feet here, which when compared to Brooklyn and Philadelphia townhouses is quite large. It's not all the case for that. That establishes an absolute minimum. All of this has to be evaluated by the Zoning department before it is finalized.

Mr. Graham said in reference to BAR, this will not exempt them from going before the BAR. They are aware of the design challenges as there always is, particularly with the elevation. They have some things they would like to explore doing that. They have already talked with the Preservation Society and the Historic Charleston Foundation about some of those.

Mr. Graham said Mr. Bryant raised some very important emotional issues. They hoped the redevelopment of this portion of the neighborhood will be a prototype for better infill parcels throughout the peninsula. He said these are scary emotional issues that everyone is aware of and concerned about but they will try to figure out ways to provide more opportunities for people to live on the peninsula that are consistent with City's goals.

Mr. Batchelder said he worked with Mr. Gregory on his three projects in this neighborhood. The particular project Mr. Gregory referenced is a project on what was formerly the Brooks Motel property. A few years ago another developer put that in a contract and went through the review process, and had the plans approved through the Zoning Board of Appeals. After he went through the approval process, he sold the project to Mr. Gregory and he is building homes since that time. When they went through the whole planning process for that site, this little street, which will be a private street to provide access to three homes, was laid out with two goals in mind: (1) they would have homes that looked out on to what was then DeReef Park and (2) this was a private street that would one day would potentially become something other than a private street that would tie into a new street network for the redevelopment of that park. Staff recognized back then that that wasn't a very viable park and they wanted to begin move towards redeveloping that area and making it a more viable area. They think this does accomplish that goal. There will be a park in the area as they go through the design process but there will be a park back there. Those homes will have access to the park like everyone else in the neighborhood.

Referring to the variety issue or the density issue, Mr. Batchelder said Radcliffeborough was one of the densest neighborhoods in the City of Charleston. The idea of putting a building of that type in this location is not unusual in the neighborhood. There were several buildings that are very high density apartments or condominium buildings on Vanderhorst Street. There are condominium buildings on Radcliffe Street, Coming Street, several along Calhoun Street that are within the neighborhood. That type of density in that particular location, that type of building is not a building that is necessarily of out character for this neighborhood.

Chair McCann closed the public hearing.

Mr. Waring asked Mr. Batchelder if the density is consistent with the neighborhood in his opinion.

Mr. Batchelder said yes. There are variations in that some areas are less dense, others are denser. What is being proposed here is some variation where you cluster some of those units around certain locations but other locations on the fringe are less dense. What you are ending up with is a project that includes a fair amount of open space and quite a bit of street right-of-way area that a lot of the infill development projects did not include. In terms of the density, he thinks it's in line with the neighborhood and surrounding area.

Mr. Waring asked Mr. Graham if there are existing residences being displaced by this development.

Mr. Graham said no, not any.

Ms. Lempesis questioned if this will require any variances.

Mr. Batchelder said they hoped that it will not. The staff have written the regulations in such a way that the parking will be provided and they don't anticipate the need for variances.

Ms. Lempesis asked if any would be needed for the condos and attached residences.

Mr. Batchelder said they wrote the development guidelines in such a way to allow the attached units and condominium units in those locations where they are being proposed with on-site parking.

Mrs. Legare asked who monitors the affordable housing issues.

Mr. Batchelder said that is something is handled through the Department of Community Development. They recently adopted the ordinance for affordable housing and that program envisions an ongoing annual review of developments that fall within that category by the Department of Community Development. They monitor the people who are living there and he thinks this would probably end up being the same situation.

Mrs. Legare asked if the affordable housing is set aside as something the developer is offering or is it something that is mandatory.

Mr. Batchelder said it is not mandatory. It is something the developer are offering in the space. Mrs. Legare concluded they could take it back. Mr. Batchelder said that detail would be something that would be worked out through the negotiation process with the City over the use of the park property because in addition to going through the rezoning process to establish the development guidelines, they will also need to work through the City's Real Estate Committee and City Council, and eventually the full Council, to seek their approval to swap property because the park is owned by the City and part of that swap will involve negotiations about the cost and improvements for the new parks, and the details of how the affordable housing is going to be instituted on the site.

Ms. Lempesis asked if that will be a prerequisite as a part of the development agreement.

Ms. Fortenberry said it would be more of an agreement with the City as opposed to something as part of the zoning.

Motion: Ms. Perry went by the site today. Among the things she thought was exciting was there is a wonderful vernacular church structure. It could easily be lost and she thought it was wonderful that that building would be saved. What they are proposing is a lot of different styles of architecture and different structures, which is what Radcliffeborough is, it's just not Charleston single-houses. She thinks it is an ambitious plan but it would be fabulous when it is completed and she thinks it complements the neighborhood. She moved for approval of the zoning with the conditions as mentioned by Mr. Batchelder.

Second: Ms. Lempesis seconded the motion. She said developers do get bad raps all the time and it is the vision of people to do something a little different. She said the fact that everyone has come to accept it and endorse it is nice.

Mrs. Legare think it is a wonderful plan but she didn't think it fits here. She thinks it is out place sitting where it is. She didn't have a better solution for what should be there and she could envision a fence around it at some point.

Mr. Geer disagreed with Mrs. Legare. He has driven by Mr. Gregory's property several times and thought it was done very well. He thinks this a building block upon that to introduce them as to not have the same group of Charleston single-houses smattered in one row after the other.

Mr. Waring complimented the developer for reaching out to all points of the community. Shiloh AME Church has been an institution in the African American community for decades. He spoke to Danny Martin, Jr. He and his father, who have practiced law for decades, have been stalwart in that community and seen all of the changes that have taken place there. He enthusiastically support it and Mr. Waring said that was important to him as Mr. Martin still serves a lot of his clients there. To reach out to not just one side of the street but in a 360°manner is admirable. He supported the rezoning.

Mrs. Ellison said it was different from what would expect to be there but she thought that was what was exciting because it is thinking out of the box.

Chair McCann concurred. He felt Mr. Graham's comment was accurate in that this understands the fabric of where it is.

Mrs. Legare voted against the motion.

The motion passed by a vote of 7 to 1.

Council then considered the public hearings called for by the following advertisement, which appeared in The Post and Courier on and November 24, 2002, and in The Chronicle on November 27, 2002.

PUBLIC HEARING

The public is hereby advised that the City Council of Charleston will hold a public hearing Tuesday, December 10, 2002 beginning at 5:00 p.m. at City Hall, 80 Broad Street on the request that the Zoning Ordinance of the City of Charleston be changed in the following respects:

REZONING

1. To rezone 3, 5, 7, 9 Dereef Court, 80 Morris Street, property on Marion Street and portions of Morris Street, Jasper Street, Marion Street, and Dereef Court rights-of-way (3.296 acres) TMS# 460-12-01-095, 094, 092, 090, 096, 134 & 460-12-03-082) from Diverse Residential (DR-2) & Mixed Use (MU-1) Planned Unit Development (PUD) classifications. **(Deferred from the October 22, 2002 City Council meeting.)**

Interested persons are invited to attend the hearing and present their views. Extended presentations should be submitted in writing.

Vanessa Turner-Maybank
Clerk of Council

Council then considered the bill to rezone 3, 5, 7, 9 Dereef Court, 80 Morris Street, property located on Morris Street, property located on Marion Street and portions of Morris Street, Jasper Street, Marion Street and Dereef Court rights-of-way (3.296 acres) (TMS #460-12-01-095, 094, 092, 090, 096, 134 and 460-12-03-082). This matter had gone before the Planning Commission in August and had been deferred from the October 22, 2002 City Council meeting.

Zoning Administrator Lee Batchelder reported that this rezoning request pertained to property located in a portion of Radcliffeborough and the southern portion of the Cannonborough/ Elliotsborough Neighborhood, centered around Morris Street. He noted that various entities, including the City of Charleston, held ownership in the subject property.

Mr. Batchelder stated that the local development firm, Civitas, had been working on this for some time. He noted that staff felt that Civitas had put an excellent plan together for the redevelopment of this area. He commented that the developers had met with neighborhood groups and various other organizations. Mr. Batchelder indicated that Civitas had received considerable support for the proposed project. He remarked that the Planning Commission also recommended approval of the development.

Mayor Riley invited public comment on this matter. The following persons addressed Council:

1) Robert Russell, President of the Radcliffeborough Neighborhood Association, stated that his neighborhood was in unanimous support of the proposed development for the subject area. He thanked Civitas for the effort that had been made to keep the neighborhood informed. He stated that more importantly the neighborhood applauded the extremely high quality of the proposed development, particularly the lengths that Civitas had gone to in order to assure the neighborhood that this will be a fully integrated part of the neighborhood. He expressed the belief that the proposed project should be a model for future development in the City, both on and off the Peninsula.

2) Helen Settle, representing the Committee to Save the City, also spoke in support of the proposed development.

3) Ruthie Smythe, local real estate agent, stated her support, but she said she wanted to know who would oversee the project.

Mr. Batchelder said any changes to the plan would have to be approved through the normal process. He noted that process would include having various City staff reviewing the proposals and he expressed the belief that any changes to the public right-of-way would require City Council's approval as well.

When Ms. Smythe asked if the flooding issues in the area would also be addressed, Mr. Batchelder responded that the developers would have to go forward with detailed engineering plans that show how the drainage and runoff will be managed. He added that this issue would be addressed more specifically in the future steps of this development.

4) Henry Copeland, Peninsula resident, stated his support and said that he was intrigued by this very innovative project. On a more personal note, Mr. Copeland said that he had found it unaffordable for him to live in the city where he grew up. He remarked that the proposed development had very sensitively attempted to mesh back some of the diverse aspects of this neighborhood, which many of the neighbors had at one time. He stated his enthusiastic support for this project for self-serving reasons; there is a component of this that he might be able to afford. He noted that a component of the project might make it possible for him to afford to live downtown rather than moving to the suburbs, which he did not want to do.

5) Vince Graham, representing Civitas, introduced his partners David Agnew and Macon Toledano. He noted that he and his partners were very excited about the project and respectfully asked for Council's approval. He stated his understanding that there was still work to be done and pledged to continue to work with the staff to make this project an ideal prototype and a good model for other developers.

The Clerk of Council noted for the record that she was in receipt of three letters of support for the proposed development: (1) Reverend Sidney Davis, President of the Cannonborough/Elliotsborough Neighborhood Association, (2) Dwayne Greene, representing

the YMCA and (3) Reverend Jerry Williams, Pastor of Shiloh AME Church. These letters are on file in the office of the Clerk of Council in the meeting file for this date.

No one else expressed a desire to speak for or against this proposed rezoning. The Mayor declared this public hearing concluded.

When Councilmember Gallant asked about the number of affordable units that would be included in the development, Mr. Graham replied that Civitas had basically committed to doing 10 percent. He indicated that the plans at this time called for 65 units so that would be seven units of affordable housing.

Councilmember Lewis moved to approve this project; Councilmember Evans seconded the motion. He went on to speak about how pleased he was that the developers had met with the community, the neighborhood organizations, every interested group and the churches as well as many others during the planning process for this development. He commended them for their hard work.

Councilmember Tinkler also spoke in support of the development. He agreed with comments that had been made during the public hearing that this proposed project could be a model of rebuilding.

Councilmember Shirley then expressed his support for these plans. He thanked the developers for inviting him to look at the proposed project.

Mayor Riley described it as an excellent plan and said that it is a model. He noted there would be many infill opportunities in the future, both on the Peninsula and in the suburbs of this City. He commented that gathering places are about infill. He spoke of the provision for affordable housing, the respect for the enhancement of the public realm, the reknitting of the neighborhood, adding density of population to the neighborhood as it once had and the great urban design.

He concurred with remarks that this development would be an encouragement and a model for subsequent infill. He noted that this would also encourage commitments to excellence of design and enhancement of the public realm and to affordable housing.

Councilmember Bleecker spoke of her commitment to the community with two children enrolled at Ashley Hall. She talked about Civitas plans to redevelop this neighborhood, which has been so plagued with terrible drugs and trafficking. She expressed her support for the project and said it would be ideal in this community. Councilmember Bleecker commented that she hoped there would be more projects like this one in Charleston.

Councilmember Waring described the project as indicative of Mr. Agnew himself. He talked about the enthusiasm he had felt when Mr. Agnew had shared these plans. He said he was elated with this project and said he hoped they would have the vision to do more of these projects in the City.

Councilmember Gallant recalled memories of the neighborhood when his great uncle lived there. He said the neighborhood was known as Pine Court at that time. He thanked the developers for the information they had provided and stated that he would be supporting the development. He noted that he would be speaking with them about a historical park that had been there many, many years ago.

There were no further questions or comments of Council.

On the earlier motion of Councilmember Lewis, which was seconded by Councilmember Evans, City Council voted to adopt the City Planning Commission's recommendation and to give first reading to the subject bill.

First reading was given to a bill entitled:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 3, 5, 7, 9 DEREEF COURT, 80 MORRIS STREET, PROPERTY LOCATED ON MORRIS STREET, PROPERTY LOCATED ON MARION STREET AND PORTIONS OF MORRIS STREET, JASPER STREET, MARION STREET AND DEREEF COURT RIGHT-OF-WAYS (3.296 ACRES) (TMS #460-12-01-095, 094, 092, 090, 096, 134 AND 460-12-03-082) BE REZONED FROM DIVERSE RESIDENTIAL (DR-2) AND LIMITED BUSINESS (LB) CLASSIFICATIONS TO DIVERSE RESIDENTIAL (DR-2) AND MIXED USE (MU-1) PLANNED UNIT DEVELOPMENT (PUD) CLASSIFICATIONS.

Councilmember Fishburne did not vote on this matter. His signed *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council in the meeting folder for this date.

Next, Council considered the public hearings called for by the following advertisement, which appeared in The Post and Courier on and December 6, 2002:

**NOTICE OF PUBLIC HEARING
CITY OF CHARLESTON, SC
2003 BUDGET**

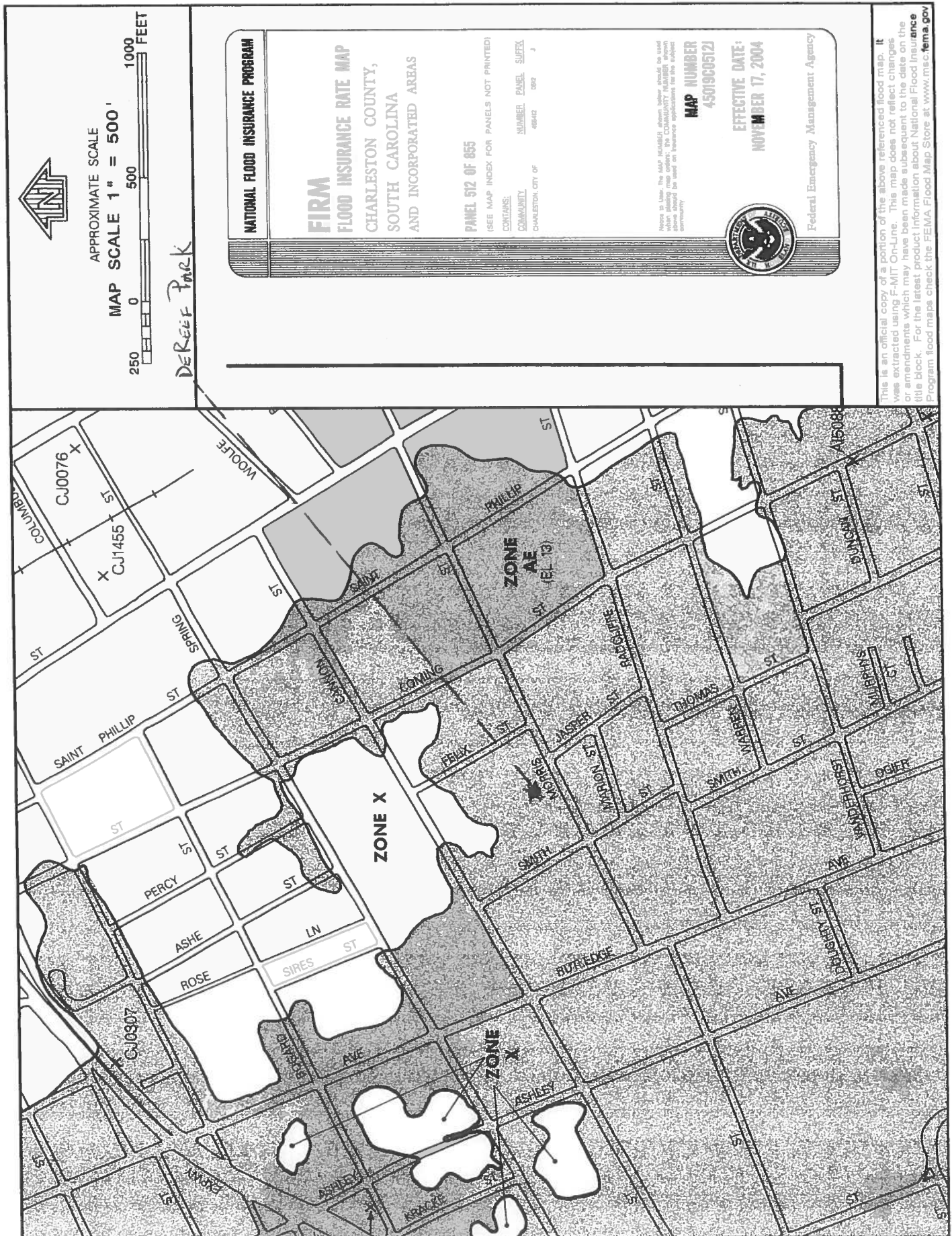
NOTICE IS HEREBY GIVEN THAT PURSUANT TO Section 6 of Ordinance No. 1996-18, the City Council of the City of Charleston, South Carolina, at its regular meeting on December 10, 2002, beginning at 5:00 p.m. in City Council Chamber, 80 Broad Street, in the City of Charleston, South Carolina, will conduct a public hearing on the City's 2003 budget and give first reading to an ordinance to adopt the budget. The total projected revenues and operating expenditures for the present and next fiscal years are as follows:

GENERAL FUND AND ENTERPRISE FUNDS

2002 BUDGET

2003 BUDGET







United States Department of the Interior

FISH AND WILDLIFE SERVICE

176 Croghan Spur Road, Suite 200
Charleston, South Carolina 29407



May 19, 2015

Ms. Gwenevere P. Smith
Chief, Recreation Programs Branch
National Park Service
Southeast Regional Office
Atlanta Federal Center, 1924 Building
100 Alabama Street, SW.
Atlanta, Georgia 30303

Re: Department of the Interior – National Park Service-City of Charleston-DeReef Park,
Charleston, Charleston County, South Carolina
FWS Log No. 2015-I-0358

Dear Ms. Smith:

The U.S. Fish and Wildlife Service (Service) has received your May 11, 2015, letter fulfilling the National Park Service's requirement under the National Environmental Policy Act (NEPA) for a Federal undertaking and to request our response on the protected species assessment for DeReef Park located on Morris Street in Charleston, Charleston County, South Carolina. DeReef Park is a city park partially being developed for single and multi-family residential homes. The site is located in a heavily developed urban area that has experienced residential and commercial development since the early 1800's. The site has been altered by current and past human activities.

The City of Charleston received two Land and Water Conservation Fund grants in 1981 and 1991 to assist with the acquisition and development of land for a park on Morris Street known as DeReef Park. A portion of the park was sold to a developer in January 2008. In December 2014, the United States District Court granted the motion for voluntary remand to reconsider the November 2008 approval of the after-the fact conversion of DeReef Park. The National Park Service was given a deadline of April 30, 2015. (but has been allowed until July 30, 2015) to reopen the administrative record and ensure the requirements of the NEPA and National Historic Preservation Act will be adequately met.


As noted in our conference call on February 24, 2015, on this matter, it is the Service's policy that we do not generally enter into section 7 consultation pursuant to the Endangered Species Act (ESA) when applicants are seeking "after-the-fact" authorization for projects that have already been completed or when impacts may have already occurred. Such a practice does not promote the conservation of listed species and critical habitat, an obligation for both the action agency and the Service under the ESA.

Further, the Service's policy is fully supported by the ESA and its implementing regulations. Both the ESA and the regulations are based on an underlying assumption that consultation will occur prior to any action being taken. Section 7(a)(2) of the ESA states that each Federal agency shall, in consultation with the Secretary, *insure* that any action authorized, funded, or carried out by such agency is *not likely to jeopardize* the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat (*See* 16 United States Code 1536(a)(2) (emphasis added)). Title 50 Code of Federal Regulations (CFR) 402.02 defines "jeopardize the continued existence of" as "to engage in an action that reasonably *would be expected*, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of the species in the wild by reducing the reproduction, numbers, or distribution of that species" (*See* 50 CFR 402.02 (emphasis added)). In the Service's opinion, the word "*insure*" and the phrases "*not likely to jeopardize*" and "*would be expected*" clearly contemplate consultation on a proposed action and not an action that has already been completed. The protections of the ESA insure against jeopardy. If the ESA and its implementing regulations contemplated after-the-fact consultation, there would be no need for the Service to consider and recommend reasonable and prudent alternatives in order to avoid the *likelihood* of jeopardy or reasonable and prudent measures to minimize the amount or extent of *anticipated* incidental take.

When a project has been completed, as is the case with DeReef Park, it becomes part of the environmental baseline. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in an action area, the anticipated impacts of all proposed Federal projects in an action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions that are contemporaneous with the consultation in process (*See* 50 CFR 402.02). The consultant for this project, S&ME, Inc., conducted the protected species assessment on March 20, 2015. They stated, "Based on a review of historic aerial photographs, photographs of DeReef Park, and the location of DeReef Park in a heavily developed urban area that has experienced constant residential and commercial development since the early 1800s, it is our opinion that the site likely did not formerly contain any significant and unique habitats that provided habitat suitable for the federally listed threatened or endangered species discussed above in the recent past." Inasmuch as S&ME, Inc. has not identified any new effects associated with DeReef Park, the existing environmental baseline remains unchanged, and there are no new effects warranting ESA consultation. In addition, the protected species assessment provided to the Service by the applicant concluded that there are no impacts to the protected Federal species listed for Charleston County at DeReef Park. Upon review of the submitted project information and in comparison to our species and habitat database based on its current state, there are no known occurrences of any threatened or endangered species within the project area.

To politely reiterate, it is the Service's policy that we do not enter into section 7 consultation for completed actions. We hope the above information is helpful. If you need further assistance, please contact Mr. Tom McCoy at (843) 727-4707 ext. 227, and reference FWS Log No. 2015-I-0358.

Sincerely,


for Thomas D. McCoy
Field Supervisor

/TDM

Cantwell, Frances

From: Smith, Gwen <gwen_smith@nps.gov>
Sent: Tuesday, June 02, 2015 3:47 PM
To: Cantwell, Frances
Cc: Compton, Matt; Stubblefield, Erin; Herdina, Susan; Andrews, Adelaide
Subject: DeReef Park - NHPA Section 106 Assessment of Adverse Effect

OFFICIAL CORRESPONDENCE VIA ELECTRONIC MAIL

NO HARD COPY TO FOLLOW

United States Department of the Interior

NATIONAL PARK SERVICE

Southeast Regional Office

Atlanta Federal Center

1924 Building

100 Alabama St., S.W.

Atlanta, Georgia 30303

IN REPLY REFER TO:

8B(SER-RPB)

45-000856, -985

June 2, 2015

ATTN: City of Charleston

In accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), 16 U.S.C. 470f, and the Advisory Council's regulations, 36 C.F.R. Part 800, we are requesting your review and comment regarding the potential for impacts to resources listed on or eligible for listing on the National Register of Historic Places should a partial conversion of DeReef Park in Charleston, South Carolina be approved.

In our letter dated March 6, 2015, the National Park Service (NPS) initiated Section 106 consultation. The letter and enclosures included a description of the undertaking, a project location map, and the identification of the "Sons and Daughters of Joseph No. 9 Mission" also known as "9 DeReef Court Chapel" as a historic property eligible for listing on the National Register of Historic Places (National Register).

On April 27, 2015, the NPS conducted a public meeting to discuss with consulting parties additional potentially eligible resources at DeReef Park. Several consulting parties brought additional public representatives with them to the meeting. Consulting parties and their partners requested that NPS further research the important historic African American connection to the land that became DeReef Park. Themes of particular interest included the DeReef family and their involvement in the creation of a business district along Morris Street, the Civil Rights Movement, the Early Charter YMCA adjacent to the property, and the Civil War.

Section 106 of the NHPA requires NPS to consider potential impacts to properties listed on or eligible for listing on the National Register. As requested, NPS undertook additional research to determine whether any of the resources discussed at the April 27, 2015 (and associated written materials submitted to NPS) meeting could be determined eligible for the National Register. To be eligible, properties must be fifty years old, meet specific criteria for historic significance, and retain historic integrity.

(See <http://www.nps.gov/nr/publications/bulletins/nrb15/> for additional information on National Register eligibility requirements).

Although NPS recognizes these as important themes and connections related to the land that became DeReef Park, with the exception of the chapel, we found no extant historic properties within the Area of Potential Effect that retain the integrity required for listing on the National Register. However, we will strongly encourage the City of Charleston to explore the opportunity to interpret and preserve the stories surrounding these historic themes. The addition of interpretive panels, continuing documentation of oral histories, a tour publication, mobile application, and/or park website updates could bring awareness to the African American community that thrived in the late nineteenth century and NPS would welcome any of these as additions to the planned redevelopment of DeReef Park.

After applying the criteria of adverse effect (36 C.F.R. 800.5(a)(1)), the NPS finds that the partial conversion of DeReef Park will not alter the characteristics that qualify the chapel for inclusion on the National Register. The undertaking will have *no adverse effect* on the chapel, nor diminish its integrity. The previous relocation and planned rehabilitation will benefit the condition and use of this resource. NPS will incorporate provisions into any executed grant contract amendment related to DeReef Park to ensure the restoration of the chapel as planned. If you have any comments regarding this determination of effect, or if you have further questions, please respond within thirty (30) days of the date of this letter to:

Gwen Smith, Recreation Programs Chief

National Park Service, Southeast Regional Office

1924 Building

100 Alabama Street, SW

Atlanta, Georgia 30303

gwen_smith@nps.gov

(404) 507-5800 phone

(404) 562-3246 fax

Alternatively, I can be reached at chris_abbett@nps.gov or 404-507-5685.

Sincerely,

/s/Chris Abbett

Chris Abbett

Associate Regional Director, Partnerships, Interpretation, and Education

Southeast Region

cc: Elizabeth Johnson, Director, Historical Services, SHPO

South Carolina Department of Archives and History

John Sylvest, Project Review Coordinator

South Carolina Department of Archives and History